

October 20, 2000

Ontario Energy Board
2300 Yonge St., 26th Floor,
Toronto, Ontario
M4P 1E4

Attention: Ms. Kathi Litt, Regulatory Officer

RE: Comments to the Draft Distributor Access Rule

On behalf of the City of Kitchener, I would like to thank you for the opportunity for input into the development of the Distributor Access Rule. We also very much appreciate provisions in the draft Rule that recognize our municipal Council as rate making authority and respecting its rights.

We have made comments to areas of the draft Rule pertaining to our specific situation. In addition, will make comment to the specific areas requested in Ms. Powell's letter of September 26th. I have tried to separate our comments and concerns into specific areas:

- A) Governance and Rate-Making**
- B) Current Technological Limitations**
- C) Applicability and Implementation Issues**
- D) Clarity and Editorial Recommendations**

- A) Governance and Rate-Making:** With the Ontario Energy Board Act of 1998, the Ontario Energy Board was given the responsibility to regulate all gas distribution utilities. The City of Kitchener understands and respects this authority. The exception to this authority was made in the area of ratemaking. The Ministry of Energy recognized the ratemaking authority of our local Council. The Distribution Access Rule Task group (DART) was aware of this exemption and developed the common phrase "the appropriate ratemaking authority" to ensure that the recommendations made by the group were comprehensive.

Board staff has been faced with the difficult task of developing a Distribution Access Rule from Ontario Energy Board objectives and input from other sources including the DART report. In that challenge, some of the subtleties of the ratemaking authority and statutory rights or obligations may have been missed. Below are Kitchener's comments on this area.

2.1.1 Eligibility

The paragraph should be completed by the following to include Municipal Gas Utilities. **“or where a distributor exercises rights under section 18 (1) of the Public Utilities Act.”**

4.1.1 Filing requirements

As was the consensus of the Task Force, municipal utilities have separate ratemaking authorities that have ultimate responsibility and authority to determine expansion policies. As this is likely an omission, Kitchener would propose that the first sentence be altered to include municipal exemption as follows:

“A distributor, subject to Section 36 of the Ontario Energy Board Act, shall file its...”

If the omission of the exemption were intentional in the draft Rule, Kitchener would reserve its right for further discussion and determination of responsibility and authority in this area.

7.4.5 Rates for Special Reads

Notwithstanding our concerns about Section 7.4 detailed below, it is our respectful position that this paragraph would require some additional wording to include rates as “determined by the appropriate ratemaking authority”.

7.5.1 STR between Marketers

Given Kitchener’s public accountability to its customers through its governance, Kitchener would request the opportunity to reserve the right to inform the customer if a Marketer-Marketer STR were submitted by a marketer. Local council would approve the implementation of this notification if the notification were deemed to be necessary.

7.7.1 In-franchise Address Change

Kitchener would be required to be notified of address changes for other accounts such as water, sewer and taxes. Kitchener reserves the right not to change the service address of the customer unless it has received confirmation or notification from the customer in the settlement of accounts/affairs at the previous service address.

8 Customer Information

The City of Kitchener gas billing system is an integral part of a much larger customer information system. Besides natural, this system is responsible for billing water, sewer, taxes and many other city services. It is also linked into many other corporate systems responsible for the running of the city. The retention and release of this information is guided by principles developed from many statutory regulations and municipal by-laws. These principles are not unlike those in section 8 of the draft Rule.

However, the limitations drafted for the collection of data in 8.1.1 cannot be met as the gas billing system is part of the larger corporate system and additional information is required.

B) Current Technological Limitations: Kitchener is in the process of upgrading its billing system. Although the core of the system was installed prior to the end of 1999 to meet Y2K issues, a substantial amount of work remains to bring the system up to a level of functionality to provide desired internal reporting. We are currently in that process but the completion is still a year or two down the road.

To incorporate billing system functionality required to meet the provisions of the Rule as drafted would take a significant investment in additional resources. In some respects, we believe that we should ultimately have this capability to ensure proper market development in our service area therefore we are not opposed to the intent of the Rule. Kitchener would respectfully request that the OEB would allow a reasonable amount of time to meet the requirements of the Rule. As opposed to repeating the above for each specific paragraph in the draft rule, Kitchener will just note which paragraphs our current system does not support.

7.2 STR Information Requirements

Our current system does not have the functionality to integrate this information in electronic format. Clearly, this type of information transfer and the processing times laid out in the remainder of Section 7 dictate a need for electronic capabilities. Kitchener will endeavour to develop this functionality.

8.2.2 Retention of Information

Currently, Kitchener's billing system does not have the capability to retain all of the information laid out 8.2. If the Board determines that all of this information is essential, Kitchener would endeavour to install the capability. It is intuitively obvious that we would also need to time to develop the capability to retain the information to meet the requirements of release in 8.3.

9.3 Billing Options

Kitchener's billing system does not have the functionality to provide the information to support Marketer consolidated billing or Split billing.

- C) **Applicability and Implementation:** The given that changing market rules requires understanding a myriad of interrelationships and cause and effect understanding, it is not surprising that the efficacy of the draft rules must be considered. Kitchener provides its view of areas of concern for the Board's consideration.

6.2 Distributor-Marketer Relations

Kitchener's billing system does not support the advance notification of a broker for an account number change. In fact, the new account number is generated by the computer system and is not available until the change has been made. Unlike concerns expressed in section B, this design is central to our system and would require a substantial re-write of the system to provide the account number in advance of the change.

It is not clear what the purpose of the 5 day advanced notice for account number change is. If this requirement is to facilitate notification of the broker of an in-franchise relocation of the customer, Kitchener would be willing to consider other methods of providing the same notification or customer choice upon relocation. Also, if the intent is to facilitate continuation of the market relationship for a customer relocation, a bullet could be added to note "**New service address (if applicable)**".

7.1 Customer Choice

Kitchener appreciates and commends the Board's respect for and endorsement of customer choice in the area of service transfers. To ensure that this principle is paramount, and yet the market is not unduly encumbered, Kitchener submits that the Board may want to recognize explicitly the rights of market participants to recover transaction costs that are not artificial switching costs. This comment extends to the choice of billing format in section 9.1 also as it could be costly to change billing formats for a customer on a regular basis.

7.2.2 Optional STR Information

The first bullet seems to infer that the marketer would have the option to accept other accounts at the same address even if these accounts were not identified in its STR. It appears that this stipulation could, unknowingly, result in accounts, not under contract with the marketer, being transferred to the marketer without the customer's knowledge.

7.4.3/4 Reads to Support Transfers

The drafting of these paragraphs allows for a number of options to support the transfer of the customer on the read date. However, as was the consensus of the DART, transfers are more effectively accommodated at the first of the month. Since the marketer is unlikely to submit STR's for one customer at a time, the draft approach could result in the marketer having numerous different contracts each with a different start day in the month.

Independent of the effective day of transfer, the issue of transaction costs must be considered. Since estimates are an accepted part of the gas industry, could the standard be an estimate. Further then, if any party does not want the estimate to be used, they would be responsible for the cost of the special read.

8.2.2.2 Information Retained for Billing

This section stipulates retention of information to specify the consumption based upon whether the consumption was determined by actual read, estimate or other methods. Unless a distributor is reading meters every month and billing to the date read, all consumption figures have, in essence, some component of estimate. Since, as noted above, our billing system does not have this functionality and since we do not read every month, we would appreciate understanding the value of this classification of consumption.

8.3.4 Third Party Request

This paragraph does not specify the type of information requested. Using the paragraph references above, Kitchener would expect that this release would not include the payment profile information of 8.2.2.3. If it does, would this requirement not put the distributor in a position of being the supplier of last resort for all customers who may not be creditworthy.

D) Clarity and Editorial Recommendations: For the Board's consideration, Kitchener provides its comments on areas that are unclear with some suggestions where we believe we understand the intent.

3.1.1 Supply Priority

Does the order of the bullets denote some level of priority?

In reading the third bullet, it is unclear whether the "public buildings" are included as those that can be shutoff or not? Where do residential customers fall on the list?.

3.2.3 Financial Consequences

Bullet 2 seems to indicate that the customer would receive compensation for delivery services for which it did not pay for nor receive. Possibly clarification is needed.

3.3 Not a Breach of Contract

Although the City of Kitchener is appreciative of the intent of this clause in the Rule, we are concerned that we may be making an incorrect assumption that the Board's authority could prevail in this situation. Very specifically, does the Board have the authority to rule on breach of contract?

7.2.3 Account Finalization

It is unclear what the intent of this clause is relative to the “**marketer account set-up files**”.

7.4.4 Reads to Support STR’s

The wording of 7.4.4 is unclear in our view. Depending upon how the paragraph is interpreted, the draft Rule may place an onus on the Distributor to make a special read at no cost. Given our previously expressed concerns about transaction costs, we would appreciate clarification.

8.1.3 Release of Marketer Provided Information

The list of recipients of the marketer provided information does not include the customer. Since some of the data the marketer provides includes prices to be charged, it would seem essential that the customer be added to this list.

I trust the above is helpful as you develop the Rule for Board approval. As always, I am available to discuss the above content with you or any other matters which you deem beneficial to developing an effective Rule for all market participants.

Sincerely,

Dwayne Quinn
Director of Utilities
City of Kitchener