



**Retail Council of Canada**  
1255 Bay Street, Suite 800, Toronto, Ontario M5R 2A9  
Telephone (416) 922-6678 Fax (416) 922-8011  
[www.retailcouncil.org](http://www.retailcouncil.org)

July 10, 2003

Mr. Paul B. Pudge  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 26<sup>th</sup> Floor  
Toronto, Ontario M4P 1E4

**Re: File Number RP-2002-0146 / Consumer Security Deposit Policies**

On behalf of Retail Council of Canada (RCC), specifically our members operating establishments in the province of Ontario, I want to thank you for the opportunity to provide comments to the Ontario Energy Board's (OEB) proposed amendments to the Distribution System Code and the Retail Settlement Code regarding consumer security deposit policies.

**RETAIL COUNCIL OF CANADA**

Retail Council of Canada (RCC) has been the Voice of Retail in Canada since 1963. We speak for an industry that touches the daily lives of Canadians in every corner of the country - by providing jobs, consumer value, world-class product selection, and the colour, sizzle and entertainment of the marketplace.

RCC is a not-for-profit, industry-funded association whose more than 9,000 members embrace all retail formats, including department, specialty, discount and independent stores, and online merchants. More than 90% of our members are independent storeowners. Collectively, RCC members account for more than two-third of Canada's general-merchandise retail market.

**THE RETAIL INDUSTRY**

The retail industry is one of the most competitive and vibrant sectors of the economy. It is a vital part of Ontario's economy, creating more than \$100 billion in sales, over 5% of the provincial GDP. With more than 44,000 storefronts in Ontario, the retail sector reaches every corner of the province. The retail sector represents 12.9% of Ontario's businesses and is Ontario's largest industry when measured by number of outlets. Employment in the retail sector represents 11.7% of the province's total employment, directly employing over 700,000 Ontarians. The retail sector is Ontario's second largest employer, behind manufacturing. The contributions made by this economic sector are felt in every corner of the province and impacts the lives of all residents.





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## GENERAL COMMENTS

With more than 44,000 retail storefronts operating across Ontario, ranging from the smallest of retail formats to the largest, the impact of consumer security deposit policies are of paramount importance for retailers. Due to their significant importance, RCC initiated contact with the Ministry of Energy and the Ontario Energy Board last year. RCC would like to congratulate the OEB for demonstrating leadership by establishing the Consumer Security Deposit Working Group, of which RCC was a member.

It is our belief that the Working Group struggled with tremendously difficult issues and gained an appreciation and respect for the challenges, difficulties and positions of all participants, particularly those with divergent views. The group recognized early in the process that the status quo, where by LDCs set their own security deposit policies which varied widely, was not sustainable. The group sought to develop consistency through the development of minimum requirements and specific terms and conditions by customer class, we further strived to ensure that the terms and conditions were fair, simple and transparent.

RCC believes that significant progress has been made and offers the following comments and suggestions to improve upon the work to date.

## OEB QUESTIONS

### *1. Are there any sections in the proposed amendments that require clarification?*

Yes. Amendments to section 2.4.11 allows for a good payment history (GPH) to be given by way of a letter from another electricity distributor or gas distributor in Ontario for the relevant period as set out in section 2.4.9. Does the ownership structure of a business have any bearing on this section? For example, are sole-proprietorships, corporate chains and franchise businesses treated the same under this provision? If corporate chains and franchises are not treated equally, and franchises are not afforded the provisions under 2.4.11, RCC believes that parent companies should be given the option of providing a guarantee instead of an upfront security deposit. RCC would appreciate understanding the Board's views on this matter.

Additionally, RCC firmly believes that an amendment is required to section 2.4.10 to allow for one disconnection notice and/or one collection trip, but not a NSF cheque or lack of funds in the case of pre-authorized payment. It is our understanding that the Canada Customs and Revenue Agency (CCRA), recognizes that mistakes and errors occur, and allows for one overdue payment notice and/or collection trip. OEB requirements for good payment history should not be more stringent than that of the Federal Government's.





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***2. Is 3 months an appropriate period of time for LDCs to bring their security deposit policies into compliance and properly communicate those changes to their customers? If not, explain how much time is required and provide a rationale.***

Retailers support the timeline of 3 months, however recognizes that this is a complicated matter that changes the rights and obligations of electricity consumers. As such, the communication strategy to consumers is of the utmost importance and must be developed and executed flawlessly. As a result, RCC provides the following two comments: first, RCC would support a delay in implementation of no more than 6 months to ensure communication is timely and thorough, and second, that we would offer to work with the OEB and LDCs on the development of communication materials to ensure that they are simple, consistent, and easy to understand for business operators.

***3. As noted above, the focus on maximum requirements is to prevent the LDC from being forced to require consumers to post a security deposit or pay a higher deposit than an LDC already requires. Has this goal been achieved?***

RCC appreciates the Board's and the Working Group's efforts in establishing terms and conditions, and supports the Board's assertion that an LDC may implement less (but not more) stringent terms and conditions than those outlined in the proposed amendments.

***4. Consumer deposits would be reviewed and updated annually by each LDC. Would such a requirement have implication for any LDCs? If so, please explain.***

RCC strongly feels that not only should LDCs review and update annually consumer deposits, but that during this annual review, LDCs should automatically issue a return, through refund or credit to a consumer who has developed a good payment history. It is totally unacceptable that a consumer should only receive a return of their security deposit upon request. It is their money and they should receive an automatic return when they meet the conditions of good payment history as outlined in section 2.4.10. Inadequate database or billing systems are not acceptable excuses. In the private sector, it is good business practice to return a customer's deposit or overpayment automatically, not to make the client chase it down.

***5. Consumer's would be able to provide a GPH reference from any other Ontario utility. Would this have implications for any LDCs including the requirement to provide the reference? If so, please explain.***

Please see RCC's response to question 1.

***6. Is a more specific definition of what constitutes an acceptable credit check required in the code?***

Yes. As stated in our response under question 2, RCC requires further clarification on parental guarantees. Additionally, RCC believes that under section 2.4.19 consumers should be able to provide a letter of credit





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equal to the amount of the security deposit as a form of payment of a security deposit. RCC is unaware of any bank that will issue an open-ended and irrevocable letter of credit.

***7. Is the method for calculating a security deposit for non-residential <50 kW consumers using customer specific average consumption appropriate or would the use of a class (and/or sub-class) average usage be more acceptable?***

RCC supports the concept of using customer specific average consumption as opposed to a class or sub-class average. It meets the tests of fairness and transparency. It results in the application of a security deposit that is reflective of the size and nature of that operation. If a class or sub-class average was used, you would have cross-subsidization occurring within the <50 kW class, with some large businesses paying less than their appropriate amount and some small to mid-size businesses paying more. In many cases, it is the small to mid-size businesses that cannot afford the security deposit in the first place. Under a class average for example, an independent owner of a hair salon or sun-tanning salon could be adversely impacted subsidizing much large businesses.

Once again, we thank you for the opportunity to provide the above comments and we look forward to hearing from the Board regarding any decision(s) you make on consumer security deposit policies. If you require further information or clarification, please do not hesitate to contact me at:

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Sincerely,

Lisa Marsden  
Director, Government Relations (*Ontario*)

cc: Hon. John Baird, Minister of Energy

