

ONTARIO ENERGY BOARD

IN THE MATTER OF *the Ontario Energy Board Act, 1998, S.O. 1998, c. 15, Sched. B, as amended.*

AND IN THE MATTER OF A Proceeding to Amend the Distribution System Code and Retail Settlement Code Consumer Security Deposits.

SUBMISSION OF WIREBURY CONNECTIONS INC.

1. The Ontario Energy Board (the Board), on its on motion, is proposing changes to the Distribution System Code to provide for rules with respect to the consumer security deposit policies of electricity distributors.
2. By letter dated June 10, 2003 the Board issued a Notice of Proceeding to Amend the Distribution System Code and Retail Settlement Code Consumer Security Deposits indicating its intention to hold a written hearing and requesting written submissions.
3. Wirebury Connections Inc. (Wirebury) intends to operate as an embedded distributor and has applied to the Board for an electricity distribution license. As such it will be subject to the Distribution System Code and therefore has an interest in these matters.
4. Wirebury is supportive of the Board's intention to develop a consistent approach to security deposit policies for electricity distributors. However, it does have some concerns with respect to some of the proposed changes. These concerns specifically relate to the issues of interest payments on the deposits held by the distributor and the definition of "good payment history".
5. Proposed section 2.4.10 of the Distribution System Code provides a definition of a good payment history. In part, it indicates a consumer is deemed to have a good payment history if, during the time period set out in section 2.4.9, i.e. a year for residential consumers and 5 to 7 years for non-residential consumers, the consumer has received no more than one disconnection notice.
6. It is Wirebury's submission that consumers that have received a disconnect notice have not demonstrated good payment history. Generally utilities invest significant

effort into the collection of arrears prior to the issuing of a disconnect notice and such notices are issued as a last resort in order to collect payment of amounts owed. Therefore, consumers have already demonstrated a poor payment history well in advance of the issuing of a disconnect notice.

7. Wirebury accepts that a perfect payment history, where all bills are paid in full on or before the due date, is an unreasonably high standard and does not recognize that even consumers with an excellent payment history may periodically miss due dates.
8. Therefore, Wirebury submits that a consumer with a good payment history is one that has had no more than two late payment notices or charges issued within the past twelve months. This standard would be reasonable for all customer classes and would be required to have been exhibited for the defined periods proposed in Sections 2.4.9, i.e. one year for residential consumers, five years for <50kW non-residential consumers and seven years for >50kW non-residential consumers.
9. Wirebury suggests that the Board consider amending proposed section 2.4.10 to:

“2.4.10 For the purposes of section 2.4.9, a consumer is deemed to have a good payment history if, within the previous twelve month period, the consumer has received no more than two late payment notices from the distributor, no cheque given to the distributor by the consumer has been returned for insufficient funds, no pre-authorized payment to the distributor has been returned and no disconnect/collect trip has occurred. If any of the preceding occurs due to an error by the distributor, the consumer’s good payment history shall not be affected.”
10. Wirebury suggests that failure to amend the definition of poor payment history may lead distributors to alter practices with respect to the issuing of disconnect notices. This may lead to a checker board application of the code across the Province. Further, since distributors rely on other utilities to establish the credit risk of consumers differentiated practices around disconnection could lead to consumers with similar payment histories to be treated differently simply because of different policies of their former distributor.
11. The other area of the proposed code amendments that is a concern to Wirebury is Section 2.4.21 where the interest to be paid on security deposits is defined. Wirebury submits that the Bank of Canada Business Prime Rate is too high for calculation of interest owing on security deposits.
12. Currently the Business Prime Rate is 5%. Chartered banks pay between 1.7% to 3% interest on 1 to 5 Year Term deposits. It is unreasonable that consumers should have a financial incentive to post and maintain security deposits with an electricity distributor paying in excess of what they would receive on a deposit with a chartered bank. Consumers should be incented to maintain a payment record that does not require a security deposit. Wirebury maintains that an interest rate that is closer to the

consumers lost opportunity would provide a better incentive to maintaining a good payment history.

13. Wirebury suggests that an appropriate interest rate for application to security deposits would be the Business Prime Rate minus 3%.
14. The code amendments are silent on the frequency that interest calculations need to be made. Wirebury interprets this as implying that interest calculations need to be for the different periods over the course of a year in which different interest rates prevailed. Wirebury submits that this imposes a complexity of calculation and explanation to consumers. Therefore Wirebury suggests that the interest rate should be adjusted and applicable on an annual basis rather than adjusted each time the prime rate changes. The prime rate in place on January 1 of each year, less 3% as proposed above, could be used for that calendar year

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 10TH DAY OF JULY 2003

Dennis M. O'Leary
Counsel to Wirebury Connections Inc.