



The Voice Of Ontario's Electricity Distributors

November 24, 2003

Mr. Paul Pudge, Assistant Secretary
Ontario Energy Board
P.O. Box 2309
2300 Yonge Street, 26th Floor
Toronto, Ontario
M4P 1E4

Dear Mr. Pudge:

Re: File # RP-2002-0146 – Consumer Deposit Policy Comments

The Electricity Distributors Association appreciates the opportunity to comment again on the policy-making process that we anticipate will lead to fair and helpful policy in the realm of consumer deposits. We welcome the iterative and careful nature of this process which has widespread implications for distributors and customers alike. We also welcome the flexibility that the Board has tried to preserve or incorporate as part of its process.

As you indicate in your instructions, we have taken care not to re-iterate EDA positions already put forward in our earlier submissions. Our commentary follows in the same order that your letter outlines the issues.

Large Consumers (>50kw) / Retention of Security Deposits

The EDA sent a letter to the Board recently which outlined a particular situation where a 3500 kW customer who represents 40% of the distributor's load and who had 25 years of good payment history (GPH) is now in the hands of a receiver. The distributor will be fortunate to receive any recompense from the receiver in this case. The proposed policy means that the customer's deposit would have been returned after year 7 of GPH. As we have contended earlier, defaults can arise from rapidly changing business conditions and we continue to press for permanent retention of deposits in situations which threaten the viability of distributors. Even if the Board were to make this amendment to permit permanent retention, distributors should have full and automatic recovery of default amounts greater than the deposit amount. Even the proposed partial return of deposits to >5000 kW customers adds administrative effort as well as a degradation in the distributors' ability to backstop defaults to the customer group with the most potential to bankrupt a distributor. As above, if the distributor has been prudent, the only way to mitigate is through full and rapid access to automatic entitlement to a funding mechanism especially created for this purpose.

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Electricity Distributors Association

20 Eglinton Ave. W., Suite 500, P.O. Box 2004, Toronto, Ontario M4R 1K8 Tel: 416.483.7739 1.800.668.9979 Fax: 416.483.9039 email@eda-on.ca www.eda-on.ca

Finally, for this customer class, the Board invited feedback about the use of credit ratings for less than 5MW and >50kW customers. For branch plants of blue chip multinational companies, it may be more convenient and administratively efficient to allow the credit ratings to be used in determining the deposit amounts, if any.

Letters of Credit

Irrevocable Letters of Credit amounts may be current upon receipt, however, new or revised ones will be required when the deposit amount becomes insufficient because of rate increases or as customer consumption increases. It will impose on distributors and customers additional effort to monitor Letters of Credit to ensure that their amounts are sufficient and will impose costs on customers to obtain new Letters of Credit. To avoid continuous replacement of Letters of Credit, it is proposed that the credit amounts be either open-ended or sized to accommodate expected increases from the beginning.

Payment of Interest

Payment of any interest on security deposits between other links of the financial chain from generators to customer does not occur, therefore why should distributors be required to do so? It has been pointed out to the Board previously that the overall market design should be taken into account in whether to establish this policy at all. This is especially significant given that distributors have at stake right now approximately \$1B in prudentials to the IMO in order to make the wholesale / retail market workable and are paying prudential fees for the privilege of doing so. The Board however, has insisted on taking a narrow focus on this issue which runs counter to every other relationship in the design of the marketplace. The EDA has encouraged for a long time the Board to take its rightful place on issues at the intersection of the wholesale and retail market in effectively regulating the overall fairness for all participants in the marketplace – we continue to do so for the payment of interest.

If the Board does determine that distributors must pay interest to customers and the Bank of Canada Prime Business Rate is determined to be the benchmark rate, how often are distributors expected to adjust the rate? For example, the rate has changed 5 times so far in 2003, 4 times in 2002 and 10 times in 2001. Administratively effective direction on the calculation methodology would be helpful to avoid customer complaints.

Prudence

We thank the Board for the commitment to provide additional guidance on this issue within the code, however the issue remains until it does so. The Board's November 10th letter makes a reference to prudence and selectively singles out a portion of what one distributor cited in its submission to support an earlier Board position. In fact, all or most of the other distributors seek guidance on what constitutes prudent behaviour and if met, there should be automatic entitlement to recovery of defaults. In any event, it is impractical and it breeds unnecessary uncertainty to implement this customer security deposit policy without having at the same time the guidance provided by a precise

definition of prudence. That definition must ensure that as long as a distributor has followed the OEB's approved rules, then it follows that an automatic recovery mechanism must co-exist to compensate for the default – a default that for the distributor is 100% of the customer's bill when the distributor's portion is at most 20% of the customer's bill.

Good Payment History (GPH)

In section 2.4.10, there is a description of what constitutes GPH. What is obviously missing from the list is an assessment of late payment charges. To believe that a customer has GPH if they have 2 or more late payment charges in a year is inappropriate. From experience, late payment charges are almost always the leading edge of a default. As such, no more than 2 or more late payment charges in a year should be added to the list which describes GPH.

Disconnection to Enforce Deposit Payment

One item that is covered off well in the Working Group's discussion and one, which the Board has neglected to include in the development of the code, relates to the possibility of disconnection to enforce the right to disconnect for non-payment of the deposit. Significant measures including disconnection, if necessary, must be available for this purpose. In practice, this situation comes up often and without guidance, there will be a steady stream of complaints to the OEB. Clearly, once a distributor has made the determination that a deposit is prudently required, the only tool to make good on that decision is to permit disconnection to occur to collect the deposit.

Once again, we thank the Board for establishing this process and we look forward to the results of your deliberations.

Yours truly,

A handwritten signature in cursive script that reads "Wayne Taggart".

Wayne Taggart
Senior Analyst