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November 25, 2003

Mr. Paul Pudge
Assistant Secretary
Ontario Energy Board
PO Box 2319
2300 Yonge Street, 26th Floor
Toronto, Ontario M4P 1E4

Dear Mr. Pudge:

I write on behalf of the Canadian Federation of Independent Business (CFIB) and our over 42,000 members in Ontario in response to your letter of November 10, 2003, regarding **Consumer Security Deposit Policies – RP-2002-0146**.

Businesses, particularly small and medium-size business, are the lifeblood of the Ontario economy. In the matter of electricity purchases, they deserve to be treated in a respectful, commercial manner.

CFIB entered into the OEB committee discussions on security deposits in good faith, trusting in the Ontario Energy Board (OEB) to defend the interests of small business consumers against arbitrary, onerous security deposit requirements by local distribution companies (LDCs).

We recognize that the LDCs are squeezed by prudential payment obligations to the Independent Market Operator (IMO), and, indeed, we think the OEB should have the fortitude to recommend or instigate a review of this aspect of market design.

The OEB's latest missive with proposed amendments to the Distribution System Code and the Retail Settlement Code have left us distressed. Clearly, the distributors and their association have lobbied heavily against the interests of their small business customers, this in addition to their heavy participation in the committee deliberations.

We expect that the OEB is seeking to mollify the electricity distributors with its latest proposal for differentiating the rules within the non-residential (business) class. In answer to this drastic, eleventh hour change, we suggest the following approach:

1. **All non-residential consumers should have the option to provide their credit rating to qualify for full relief from security deposits.** This would relieve the business and the LDC from doing anything other than properly lodging the credit rating, saving both time and cost. The credit rating table using *Standard and Poor's* terminology presented in paragraph 30 of the proposed amendments should be expanded to include other well-known credit scoring agencies such as *Dun &*

Bradstreet, and Equifax. Consumers bearing the expense to obtain their credit rating should be given the opportunity to choose an appropriate agency.

2. **The required period of good payment history should automatically—without request or additional waiting period-- result in 100 percent deposit refund,** regardless of the electricity consumption. **Seven years is a very long time, out of step with normal commercial arrangements.** For example, we understand that five years is typical in the gas industry.

- PARAGRAPH 11

The proposal states that customers >5 MW represent the greatest material discrete exposure risk. No evidence has ever been presented to substantiate this claim. In fact, LDCs serving on the working group confirmed that residential consumers present far greater risk of unpaid accounts than do business customers. Until and unless concrete data can be presented to substantiate the basis of this new clause, it must be withdrawn.

- PARAGRAPH 18

Provision for a transition period of one budget cycle prior to the exercise of a security deposit refund is another example of serving the needs of the LDCs at the expense of consumers. It is difficult to imagine that LDCs' cash flow troubles are any worse than those of small firms. We strenuously object to having the consumer wait nearly a year before having his security deposit refunded, since this is a 'de facto' increase in the deposit period.

- PARAGRAPH 22

Proposals outlined in paragraphs 22 also raise some significant concerns. In requesting customer-specific calculations for the non-residential sector, our hope was to eliminate situations where the consumer was paying based on a class average, where in fact the class may not be representative of the consumer in terms of size and usage (e.g. A small baker being placed in the same class as a large bakery).

It is unlikely that this situation will be remedied if the distributor leaves it to a 'reasonable estimate', especially since the distributor has not been given guidelines as to what is reasonable, or examples of the types of comparisons they might seek in making this estimate. We ask that parameters/guidelines be put in place to ensure LDCs arrive at a 'reasonable estimate.'

- PARAGRAPH 26

CFIB objects to customers having to request the return of deposits *in writing*. No doubt the distributors are counting on some people neglecting to do so. This

is a mean-spirited attempt to further take advantage of small consumers who don't have cadres of staff to follow up on such matters. As a matter of good service, LDCs should return deposits automatically.

- PARAGRAPH 30

Given the tenor of some of the proposed changes, we ask for a complete list of the administrative changes being proposed. It would also be helpful to know the rationale for the truncated time period of four months for payment of the deposit outlined in Section 2.4.20.

- PRUDENCE

Once again, we cannot emphasize enough how important it is to define 'prudence' -- at least to the extent that LDC compliance with the deposit collection policies in the retail and distribution settlement codes will hold them in good standing with the OEB. Consumers must also be assured that LDC fulfillment of OEB prudence requirements will not jeopardize fair deposit policies. Why is the OEB not moving on this key item?

It should be noted that we are pleased that the OEB has included at least a couple of our ideas from previous submissions, including Good Payment References from other Canadian jurisdictions outside of Ontario, as well as well as the addition of customer-specific calculations—notwithstanding CFIB concerns on the specifics outlined above.

The debate over consumer security deposits has been far too long and difficult. We feel that there has been insufficient attention to the needs of consumers, especially small- and medium-size businesses. We trust that you will rectify small business issues in the final report and the amendments to the Distribution System Code and The Retail Settlement Code.

Sincerely,



Melanie Currie
Policy Analyst, Ontario



Judith Andrew
Vice President, Ontario

CC: Hon. Dwight Duncan, Minister of Energy
Bryne Purchase, Deputy Minister, Ministry of Energy
Satinder Chera, Director, Provincial Affairs, Ontario