



November 24, 2003

Mr. Paul Pudge, Assistant Secretary
Ontario Energy Board
PO Box 2319
2300 Yonge Street, 26th Floor
Toronto, Ontario
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File # RP-2002-0146 – Consumer Deposit Policy Comments

Dear Mr. Pudge:

Hamilton Utilities Corporation appreciates the opportunity to provide further comments on the policy-making process that we anticipate will lead to fair and helpful customer credit policy. We are supportive of 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 HUC positions already put forward in our earlier submissions. Our commentary follows in the same order that your letter outlines the issues.

>5MW Customers Paragraphs 8 - 12

In your letter, you specifically state that you desire comments on the 5MW customer segment component of your proposal. It is in this area that we believe the objective of consistency can be applied. In many jurisdictions, LDC's have customers that are also Wholesale Market Participants under the IMO rules. It should be an objective that these customers be treated in the same manner by the IMO and the OEB rules. Clearly, LDC adoption of rules similar to the IMO prudential requirements affords more credit protection to LDCs than those rules proposed by the OEB. OEB adoption of less protective credit policy for LDCs than the IMO will result in large users moving to or remaining with LDCs as standard service supply customers in order to reduce their overall cost of electricity while exposing LDCs to unreasonable levels of credit risk well in excess of their ability to earn revenue from these customers. We would strongly urge the OEB to look at the IMO rules with the idea of establishing parity with them. 50% of our > 5MW customers are also Wholesale Market Participants. Disparity between LDC and IMO credit policy for these customers will be a hindrance in the development of the wholesale market.

Another comment that we would like to make with regards to the policy for >5MW customers are that in many jurisdictions these customers have a high profile in the LDC community. If it is seen by others in the community that these customers are given "special treatment" it has to be justifiable. If we were to experience a loss as a result of this OEB policy it will put the LDC in a difficult situation when its own ratepayers will have to pay for any shortfall in future rates. In order to prevent this from happening we would strongly support a policy consistent with the IMO model. In fact, we suggest that the OEB require all interval meter customers to settle directly with the IMO to relieve LDCs of cash flow and credit risk that should be borne by while market suppliers.

We also believe that those LDC's that have third party credit ratings will be exposed to a rating downgrade if the Large User customer is not secured. We would like to see strong enforcement powers put in place that would make the deposit policy effective, similar to those of the IMO. We would support a compulsory security requirement for this customer class.

We acknowledge that a GPH should be rewarded when it practically results in reduced credit exposure for the LDC but GPH in and of itself cannot be used exclusively as the sole measure of creditworthiness. If a deposit policy is to be effective it must protect all ratepayers from a credit loss; otherwise, customers with good credit standing will continue to subsidize less creditworthy and non-paying customers through rates which is not fair. Without the appropriate level of security an LDC is an unsecured creditor of a >5MW customer. Unfortunately corporate bankruptcies do occur and if an LDC were an unsecured creditor there would be little in the way of recovery. A Good Payment History doesn't provide any protection in bankruptcy. LDC's need protection in bankruptcy.

Paragraph 12

We in principle would not have an objection to this section however we believe it would be prudent that despite the rating a GPH must be maintained and that it should be a combination of any external rating and maintenance of a GPH. Under the IMO rules the existence of a rating overrides any GPH history. As an example, a customer with a rating below BBB would not be eligible for any security reduction.

Paragraph 13

We would endorse a proposal that would allow for all commercial customers to avail themselves of a rating agency. Our customer base however would not often have use for a DBRS or S&P rating so we would recommend that any independent third party rating acceptable to the LDC be allowed. Such a rating would have to allow for ongoing monitoring and should be paid for by the customer. There are other rating agencies and credit bureaus that could supply independent verification of a commercial customer's credit worthiness.

Paragraph 18

The larger security requirements are met with a Letter of Credit and not deposits so there shouldn't be a cash flow impact on the commercial front. There will be a significant impact as a result of the residential deposit return.

Paragraph 20

We agree with your approach but we should not be forced to pay a higher rate than what a residential customer could achieve on their own from an approved bank. Customer deposits in the form of cash represent a short-term source of liquidity for LDCs and, therefore, interest rates on deposits should reflect market rates on short-term borrowings and not exceed rates on indicative instruments such as Banker's Acceptance or Commercial Paper, less administrative costs. We believe our approach of using Prime less 2.25% is consistent with the above approach.

Paragraph 25

We would like the definition to include greater clarity with regards to the collection activity. We would like to think that customers need a clear understanding of what constitutes a good payment history. We have defined the many types of activity that could be construed as either supporting or negating a GPH. Notices, returned items, collection trips, load limiters and timed interrupters, disconnect orders, phone calls and service cuts are all activities that are used by LDC's to enforce collection action. All of these activities should be defined in a policy and identified as parts of an LDC's collection activity. Any account that exhibits these activities should know that either a singular event or a combination of such events would lead to losing a GPH.

Paragraph 32

The issue of prudence is the greatest concern with the overall policy. In your letter it states that an LDC stated, " We accept that an all inclusive definition of prudence is problematic ...". If you can't define prudence in an all-inclusive manner how is it that you feel comfortable in defining

credit policy in an all inclusive manner? We must accept that different LDC's face different customers and demographics. In order to protect all of their ratepayers LDC's must have policies that are effective and can be seen by all of our stakeholders as effective given the factors that impact credit quality in a LDC's distribution area.

The OEB must accept its own policies and regulation as prudent policy for the industry it serves. Where such policy results in losses in excess of those provided in LDC rates, there must be a clear mechanism for LDCs to recover such losses through rates in a reasonable time period. Otherwise, the OEB policy will be viewed negatively by the investment community and impair corporate liquidity necessary to support sustainable investment in the distribution system.

We remain of the opinion that in the case of the residential customer, LDC demographics must be recognized in credit policy and have a place in credit risk mitigation. Owners versus tenants represent a different risk profile. LDC's with a lower average income demographic, such as Hamilton, will experience a different set of circumstances than LDC's with a more affluent community base. Older cities have more access issues caused by older construction standards, which often result in larger losses than what would be covered by your proposal. We have used census data to position our credit policies in our marketplace. We also believe that by giving our customers options we can engage our customers better and provide many benefits not only to the LDC but the customer and the community. While the OEB proposal will not prohibit the use of options, there are aspects built into the proposal that will make many of our initiatives to engage the customer less successful. We believe that the OEB should not prevent an LDC from taking initiative. We believe that we have listened to all of our stakeholders and what we present as draft policies represent a new approach towards credit risk management for an LDC. We have incorporated many of your recommendations but wish to point out our major differences.

Commercial Customers

- No compulsory security return
- Yes an annual review but clearly defined terms for a reduction or waiver
- Security amount cognizant of payment and disconnection realities
- An acknowledgement that there are actions a customer can take if you give them options
- The use of independent third party credit adjudication where possible. All commercial credit should be tested against proven commercial practices
- Payment history is never used as the sole criteria for an unsecured commercial credit in the private sector markets

Residential Customers

- Automatic security return under certain conditions
- Yes an annual review but clearly defined terms for a reduction or waiver
- For those customers requiring security a deposit retention period of two years should be required
- Security amount cognizant of payment and disconnection realities
- Look at the use of technology and employ it where warranted

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

Yours truly,

(Paper copies signed)

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