

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*,  
S.O. 1998, c. 15 (Sched. B);

**AND IN THE MATTER OF** a proceeding pursuant to  
subsection 74 of the *Ontario Energy Board Act, 1998*  
to amend the Distribution System Code and Retail Settlement Code.

**SUBMISSION OF HYDRO ONE INC. UTILITIES REGARDING  
THE BOARD'S PROPOSED CHANGES TO THE TREATMENT  
OF CUSTOMER SECURITY DEPOSITS**

**NOVEMBER 25, 2003**

## **HYDRO ONE'S SUBMISSION ON THE BOARD'S PROPOSED CHANGES TO THE TREATMENT OF CONSUMER SECURITY DEPOSIT POLICY**

The Board proposes to amend the Distribution System Code's treatment of consumer security deposits by electric utilities to effect greater consistency in their application. In a follow-up process to that undertaken in June and July, 2003, the Board has requested comments on newly proposed revisions since that time. The following is the submission of the utilities of Hydro One Inc. – Hydro One Networks Inc. (“Networks”), Hydro One Remote Communities Inc. (“Remote Communities”) and Hydro One Brampton Networks Inc. (“Brampton Networks”) on this issue.

Overall, we agree with the Board's position. We do, however, have a few concerns regarding the use of credit ratings, which are discussed below and also wish to note a few sections which could benefit from further clarification

### ***The Board's Proposal for Security Assessment and Refunds***

The Board suggests a split of the non-residential customers with more than 50 kW of consumption, into two groups of large and medium to large<sup>1</sup> customers and introduces the use of credit ratings as a vehicle to help LDCs assess for large customers, the need for a deposit, the maximum amount and also the potential refund.

#### *Assessment for Large Customers*

It is our understanding that the process for large customers, as proposed by the Board, would work along the following lines:

- a) A transition period of one budget cycle leading up to January 2005, would be implemented, to enable LDCs to review the accounts of customers with security deposits and prepare for refunds (Section 2.4.24).
- b) Those customers with a good payment history of seven years would be entitled to an automatic minimum refund of 50% of the amount held (Section 2.4.25).
- c) Should a customer be able to provide a good credit rating by a recognized agency, it could be entitled to a refund greater than 50%, with the additional percentage determined by the strength of the credit rating. That refund could be 100% of the deposit amount (Section 2.4.13).
- d) The customer's capability to provide a satisfactory credit check would replace payment history with their LDC as the criterion by which the LDC will judge their financial security (Sections 2.4.11 and 2.4.13).
- e) At the time of a later re-assessment, a customer may be entitled to a full refund according to section 2.4.13, but it appears that the LDC is nonetheless required to

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<sup>1</sup> Large customers would comprise those with consumption greater than 5 MW and medium to large customers would comprise those with consumption from 50 kW to 5 MW.

return only 50% of the amount held. (The Board's previously stated intent to use credit ratings for re-assessments does not seem to be factored into Section 2.4.25).

### *Assessment for Medium to Large Customers*

Medium to large customers would automatically receive 100% of their deposit following seven years of good payment history. The Board has requested feedback as to whether this group should also be able to opt-in to the approach involving the use of credit ratings.

### *Hydro One's Response*

The Board seeks to ensure that an objective assessment may be made via the table provided in section 2.4.13. This utilizes credit ratings from a recognized agency to demarcate specific percentages by which a deposit amount may be reduced from the calculated maximum. Use of credit ratings would then entirely replace the use of good payment history after the LDC's initial review of deposits. Hydro One appreciates the proposed standardized approach, but recommends that LDCs be given the flexibility to factor in both credit ratings and good payment history to facilitate judgement of a (greater than 50kW) customer's candidacy for security deposits and potential refunds, for the following reasons:

- Very few of our customers will have a credit rating from one of the three recognized agencies with standardized ratings – Standard and Poor's (S&P), Moody's or Dominion Bond Rating Service (DBRS). Further, such a rating may or may not factor in a customer's bill payment pattern. LDCs require an assessment of a customer's *propensity* as well as their *capability* to pay their bills.
- The use of other credit reporting agencies raises concerns around the quality of the eventual assessment, in that:
  - The information provided is usually open to interpretation.
  - The assessment is often not focused on the company, but rather, on the credit-worthiness of individual company directors.
  - They typically do not use utility payment history in their evaluations.

In short, the information underlying credit checks or credit ratings may not necessarily be helpful in assessing a customer's electricity payment record. *Hydro One would therefore, recommend that a good payment history for the appropriate period (seven years) be maintained as a measure for an LDC to assess a company's security.* Accordingly, an LDC's assessment may be *supplemented* by a company's credit rating from S&P, Moody's or DBRS, but not be replaced by it.

We are concerned with the Board's proposal that medium to large customers would be entitled to an automatic full refund of their deposit following seven years of good payment history. The original purpose of the security deposits is to protect the LDC in the case of a potential default. No customer is completely risk-free. We would recommend therefore, that there should be no automatic full refunds. Our position that

LDCs should be allowed to use both good payment history and credit ratings in their decision-making on refunds applies to these customers as well as to those over 5MW.

***Recommended Clarifications or Suggestions for Consistency***

We have given our understanding of the Board's position, but recommend that a number of sections be written in simpler and clearer language to ensure a common understanding by all parties. For the few identified sections below, we have specific questions or would recommend the addition of a phrase or two to help provide greater clarity:

Section 2.4.10 – Where customers groupings are split according to their consumption of lesser or greater than 50 kW demand, it should be explicitly noted that *50 kW is defined as the monthly average demand over a 12-month period.* (This is the criterion by which most utilities will measure and assign customers to a rate class.)

Section 2.4.11b) – This section proposes that a larger non-residential customer capable of providing a “satisfactory credit check” could be exempt from paying a security deposit. Parties to this proceeding will need to understand whether a satisfactory credit check is the same as the credit rating discussed in section 2.4.13, or, if it refers to something else, what that would be and how standardized would the criteria be for determining what is satisfactory. As noted earlier, documentation from other credit reporting agencies can be open to interpretation.

Section 2.4.13 – We recommend the following be made more explicit:

- A change in phrasing to “a credit rating from one of the recognized credit rating agencies, *specifically Standard and Poor's, Moody's or Dominion Bond Rating Service*”
- That expenses associated with obtaining a credit rating be incurred by the customer.
- That a copy of the official record substantiating the customer's rating be provided to the LDC by the customer.

Section 2.4.19 – We submit that LDCs should be able to maintain some flexibility in the form of security provided and therefore, recommend that the last sentence in this section be revised to “The distributor may also accept other forms of security such as surety bonds and third party guarantees *at their sole discretion.*”

Sections 2.4.22 and 2.4.23 – We believe that the revisions proposed for these sections fulfill the intent, but that the wording is rather awkward. As an example, to help clarify section 2.4.22, we recommend the following:

“At least once in a calendar year, a distributor shall review every customer's security deposit. The purpose is to determine whether the deposit should be fully refunded, if the customer is now assessed to be exempt from this obligation under section 2.4.9 or 2.4.11

or whether the amount of the security deposit is to be adjusted based on a re-calculation of the maximum amount under section 2.4.12 or 2.4.13.”

Section 2.4.25 – As noted in page 1, we have assumed that the Board intends to address both the initial assessment and a later re-assessment of the company’s security in this section, but this is not clear. The rebate amount seems to be subject to the LDC’s decision-making, rather than to the earlier rule which reflected use of credit ratings after seven years of good payment history.

### ***Issues Raised Previously on Which the Board was Silent***

Hydro One raised a few issues in its July submission on which the Board has been silent. We believe they still need to be addressed and accordingly, are raising them again.

#### *Treatment of Embedded LDCs*

Hydro One’s July submission stated that a number of LDCs are host to embedded utilities and accordingly are subject to the risk of default on payments from them. Again, *we submit that a statement should be added to the Code, where appropriate, to the effect that “prudential obligations to host distributors from embedded LDCs (which are not market participants), should be calculated in a manner similar to that used by the IMO to calculate prudential obligations for other LDCs.”* We believe that this practice appropriately represents the net exposure arising from embedded LDCs’ potential default on the charges noted above. As such, this position aligns with what host LDCs must pay to the IMO on behalf of their embedded utilities. Further, this approach would ensure that embedded LDCs which are registered wholesale market participants, are not provided an incentive through the application of prudentials, to alter their status in the wholesale market.

#### *Utilities’ Enforcement Capabilities*

Section 2.4.6.1 states that an aspect of a distributor’s policy on security deposits to be included in their conditions of service, is the “methods of enforcement where a security deposit is not paid.” However, the Board does not further address the question of enforcement, leaving LDCs without the explicit capability to collect deposits, in the case of a customer’s refusal to pay. The Board had stated, in its August 14<sup>th</sup>, 2002 memo, that it had not made a determination on whether non-payment of a consumer security deposit is grounds for termination of service. *We suggest that collection activity up to and including disconnection of electrical service be a consequence of failure to pay a security deposit identified as a condition of obtaining or continuing electricity service. We ask the Board to provide clear guidance on LDCs’ capability to enforce their authority on this issue.*

### *Use of Reference Letters*

Hydro One does not have an issue with the use of reference letters from other Canadian utilities, as proposed in section 2.4.11 a). However, *we also request that the Board allow the flexibility in the Code to enable LDCs to continue with their current approach, such as a reference on the customer's final bill.* We had previously indicated that Networks and Remote Communities automatically provide a reference on the customer's final bill (noting the customer's good payment history), which the customer may provide to another utility. *Our preference is to continue with this approach as we believe that it accomplishes the objective without incurring incremental costs or charge to the customer.* Where we are asked to provide a customer with a reference letter, we do so, at the Board-approved charge of \$15.00 (for an Arrears Certificate). Brampton Networks also will provide a reference letter on request at a \$15.00 Board-approved charge.

### *Cost Recovery*

The performance of credit checks will incur transaction fees and this process as well as the management of reference letters will need new business processes to be developed. Hydro One asks the Board to clarify its expectations regarding the treatment of associated implementation costs for recovery purposes, given the current rate conditions.