

## **SUMMARY OF STAKEHOLDER COMMENTS TO DRAFT INTERIM ELECTRICITY DISTRIBUTION LICENCE & ASSOCIATED CODES**

On October 28, 1998 Board staff circulated draft interim distribution and transmission licences and tables of contents in respect of a Distribution System Code, a Default Supply Code, an Affiliate Relationships Code and a Retail Metering Code (collectively, the “Distribution Codes”), and a Transmission System Code and an Affiliate Relationships Code (collectively, the “Transmission Codes”), for purposes of collecting comments from interested parties.

This document sets forth the comments of various parties who made submissions to Board staff in respect of the draft interim electricity distribution licence. The document first provides the conditions set out in the distribution licence. The comments received from interested parties are summarised in italics under each applicable condition of the Licence.

### **PART 1 – DEFINITIONS AND INTERPRETATIONS**

In this licence:

“Act” means the Ontario Energy Board Act, 1998;

“affiliate” with respect to a corporation, has the same meaning as in the Business Corporation Act;

“Board” means the Ontario Energy Board;

“business day” means any day the Board's offices are open.

“Affiliate Relationships Code” means the code approved by the Board which is in force at the relevant time and which establishes the rules under which the Licensee may interact with its affiliates, as well as rules for separating data and resources;

“consumer” means a person who uses, for the person's own consumption, electricity that the person did not generate;

“Director” means the Director of licensing appointed under section 5 of the Act;

“distribute” means to convey electricity at voltages of 50 kilovolts or less;

“Default Supply Code” means the code approved by the Board which is in force at the relevant time and which establishes the standards for the sale of electricity by a distributor and the relationship between the Licensee and its customers;

“Distribution System Code” means the code approved by the Board which is in force at the relevant time and which regulates the standards of service related to the distribution of electricity, terms and conditions with respect to connection and distribution service as well as the standards of operation of the Licensee's distribution system as well as establishing the standards for expansion;

“distribution system” means a system for distributing electricity, and includes any structures, equipment or other things used for that purpose;

“distributor” means a person who owns or operates a distribution system;

“distribution licence” means a licence to distribute electricity granted under Part V of the Act;

“generator” means a person who owns or operates a generation facility;

“IMO” means the Independent Electricity Market Operator established under the Electricity Act 1998;

“Licensee” means xyz Hydro Inc.<sup>1</sup>;

“Market Rules” means the rules made by the Minister of Energy or the Independent Electricity Market Operator under section 30, and as amended under section 31, 32 and 33 of the Electricity Act 1998;

“rate” means a rate, charge or other consideration and includes a penalty for late payment;

“Rate Order and Performance Standards Handbook” means the handbook approved by the Board which is in force at the relevant time and which, among other things, regulates rates and establishes performance targets for the distribution services of the Licensee;

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<sup>1</sup>DN this will identify the licensee

“regulations” means the regulations made under the Act;

“retailer” means a person who retails electricity; and

“distribution services” means services related to the distribution of electricity and the services the Board has required distributors to carry out, including default supply service and which a charge or rate has been established in the Rate Order.

In this licence words and phrases shall have the meaning ascribed to them in the Act or the *Electricity Act*. Words or phrases importing the singular shall include the plural and vice versa and words importing a gender shall include the opposite gender. Headings are for convenience only and shall not affect the interpretation of the licence. A reference to a document or a provision of a document includes an amendment or supplement to, or a replacement of, that document or that provision of that document. An event which is required under this licence to occur on or by a specific date which is not a business day shall occur on or by the next business day.

*Part 1 provides definitions which are to be referred to for purposes of interpreting and understanding the use of capitalised terms throughout the body of the licence.*

*Oakville Hydro has stated that the interim licence definition of “distributor” which is currently defined as “a person who owns or operates a distribution system” contemplates separate parties as owning or operating a distribution system. It recommended that “distributor” be defined as, “a person who holds a distribution licence”. Similarly, it recommended that “generator” be defined as a person who holds a generator licence. Municipal Electric Association suggested that the definition of “distribution system” consider section 84 of the OEB Act which empowers the OEB to determine whether a system that forms part of a transmission system is a distribution system and whether a system that comprises a distribution system is a transmission system.*

*Currently, the Electricity Act, 1998 draws a boundary between transmission and distribution by the conveyance of 50kV of electricity. Anything more is transmission while anything equal to or less is distribution. Waterloo North Hydro and Oakville Hydro advised that they consider certain facilities which operate above the 50 kV level (i.e., TS transformers together with high voltage bus work and switches) not to be “transmission” or “grid” facilities. This is because the equipment is used to connect the distribution system to the grid. It suggested that this type of equipment be included in the Distribution Licence such that a Transmission Licence is not also required to be held.*

## **PART 2 – CONDITIONS**

Pursuant to section 70 of OEB Act, a licence may prescribe the conditions under which a person may engage in the electricity activities set out in section 57 (i.e., distribution, transmission, retail, and sales, among others). This Part sets forth such conditions.

### **Condition 1 Authorisation**

The Board, in exercise of the powers conferred by Part V of the *Act*, licences the Licensee to own and operate a distribution system in the service area defined by the map and lists of excluded and additional areas and sites attached in Schedule 1, subject to the conditions set out in this licence.

*Condition 1 provides that the Licensee shall own and operate the distribution system in “the service area defined by the map” and lists of “areas and sites” defined by a corresponding schedule.*

*Waterloo North Hydro, Port Hope Hydro and Windsor Utilities Commission suggested that this condition should clarify whether the “service area” will be exclusive to a licensee or whether other competitors will have access to a service area. Bennett Jones and Scott & Ayles for Ottawa Hydro advised that the interim licence ought to contain an exclusivity clause since the Licence relates to the monopoly distribution function. Municipal Electric Association recommended that the Licence should allow for the owner of the distribution system to be a different party from the operator of the distribution system.*

### **Condition 2 Licence fees**

Under section 26 of the *OEB Act*, the OEB is authorized to assess market participants. Condition 2 makes the payment of fees a condition of the licence.

2.1 The Licensee shall pay as directed by the Board a licence fee determined in accordance with section 12 of the *Act*.<sup>2</sup>

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<sup>2</sup>The Board is currently considering the appropriate format of the licence fees. As such, the calculation and basis for payment will be set out as a condition in the licence (either as broad or detailed calculations).

- 2.2 The Licensee shall, on an annual basis, pay any amounts, as may be assessed pursuant to section 25(1) of the Act, in respect of expenses incurred by the Board for the purpose of maintaining the licence, including the monitoring of compliance with the conditions of this licence.

*Currently, the interim licence provides that the Licensee shall pay any amounts as may be assessed. Granite Power Corporation commented that the licensee should not be assessed “any” amounts by the OEB, but “reasonable” amounts. Moreover, it was suggested that the size of the licensee should be taken into account when any fees or charges are being imposed by the OEB. Whitby Hydro Electric Commission suggested that fees should be based on the number of customers served and not “flat fees”. Port Hope Hydro suggested that no annual licence fees are necessary except where the Licensee has been charged with breach of conduct, codes, unreasonableness, etc. This comment is not dissimilar to Granite Power Corporation’s emphasis on “reasonable” fees. Waterloo North Hydro queried as to how holders of both transmission and distribution licences would be affected by such fees. Municipal Electric Association recommended some form of cost recovery.*

**Condition 3** *Note that as a matter of drafting there is no Condition 3 between Conditions 2 and 4*

#### **Condition 4 Term of Licence**

This licence takes effect on and from **xx** (to be determined following the passage of Bill 35) for a term of 24 months unless its duration is extended by the Board.

*Condition 4 sets forth the time within which the License is valid. It reiterates section 129 of the OEB Act which empowers the OEB to issue interim licences with a term not exceeding 24 months, subject to any extensions which may be granted by the OEB.*

*Oakville Hydro suggested that beyond the interim period, the licence should have a life of 25 years or more (an acceptable appreciable period for plants). Sunoco recommended that post-interim (i.e. other than interim) licences be permanent licences subject to periodic review by the OEB or the Director of Licensing.*

#### **Condition 5 Licence not transferable**

This licence is not transferable or assignable without leave of the Board.

*Scott & Ayles for Ottawa Hydro and Bennett Jones noted that an absolute prohibition on the transferability of the distribution licence may be inappropriate for municipal corporations*

who may transfer licences by “transfer by-law” pursuant to s.70(7) of the OEB Act for purposes of municipal restructurings under section 145 of the Electricity Act, 1998.

### **Condition 6 Amendment of licence**

The conditions of this licence may be amended in accordance with section 73 of the Act.

*Condition 6 allows a License to be amended in accordance with Section 73 [now section 74] of the OEB Act. The OEB’s statutory right to amend a Licence extends to the right to amend a condition therein. Scott & Ayley for Ottawa Hydro suggested that amendments include the amendment of the Codes which is also dealt with under Condition 10 under a separate amendment procedure, and thus may appear to be redundant.*

### **Condition 7 Suspension or revocation of licence**

The Board may suspend or revoke this licence in accordance to section 75 and section 76 of the Act. The Board may cancel this licence if the Licensee agrees, at any time, in writing that the licence should be cancelled.

*Condition 7 authorizes the OEB to suspend or revoke the License in accordance with such authorizing provisions in the OEB Act. Granite Power Corporation stated that this condition should include a process whereby a Licensee in contravention of the Licence, is given probationary periods to allow the Licensee time to correct any problem rather than risk a wholesale shutdown of the distribution system by virtue of the revocation of the Licence. Port Hope Hydro suggested that a mechanism be in place to determine how to suspend or revoke a licence and how a customer is held harmless.*

### **Condition 8 Provision of information to the Board**

The provisions of the Licence requiring the Licensee to provide information to the OEB are authorized by section 70(2)(b) of the OEB Act.

8.1 The Licensee is required to provide information to the Board regarding the business activity for which it is licensed in the form and manner that is determined by the Board.<sup>3</sup>

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<sup>3</sup>The form and manner of the information requirements is still being developed and will be prescribed as a condition of the licence or as a part of the rate order and codes to which the information requirements are related.

*Pursuant to Condition 8.1, the Licensee is required to provide information regarding the business activity for which it is licensed. Municipal Electric Association advised that there should be a definition of "business activity".*

- 8.2 The Licensee shall provide, in the manner and form determined by the Board, such other information as the Board may require to monitor compliance with the conditions of this licence and any legislative or regulatory requirements.
- 8.3 The Board may require from the Licensee any information or further explanation of information relating to the business activity for which the Licensee is licensed, or any information or further explanation relating to affiliate transactions involving the Licensee.
- 8.4 Without limiting the generality of condition (8.1) the Licensee shall also notify the Board, as soon as practicable, of any major incident affecting the operation of the Licensee's distribution system, in accordance with the standards issued by the Board for the reporting of such major incidents.

*Pursuant to Condition 8.4, the Licensee is required to provide information of any major incident "affecting the operation of the Licensee's distribution system..." Whitby Hydro Electric Commission, Municipal Electric Association, Toronto Hydro, Granite Power Corporation, Ontario Hydro, Utilities Kingston, Scott & Ayleen for Ottawa Hydro, and Ottawa Hydro (by its staff submission) all advised that there should be some definition of "any major incident" so that the scope of information to be provided to the OEB is clear and so that companies understand when the obligation to report arises. Scott & Ayleen also suggested that information pertaining to non-monopoly functions should be held by the OEB in confidence.*

## **Condition 9 Provision of information to market participants**

The Licensee shall provide information regarding its system capability to all market participants. Such information shall be provided for the purpose of system design and system augmentation. The Licensee shall not, unless necessary for compliance with the Market Rules or any Board approved code or standard, release specific information regarding a market participant to any party unless the release of such information has been authorized by the market participant.

*Condition 9 requires the Licensee to provide information to market participants regarding its system capability for purposes of system design and system augmentation.*

*Oakville Hydro and Utilities Kingston recommended that "market participant" be a defined term in the Licence. Port Hope Hydro commented that other market participants should inform a Licensee of plans that impact local distribution and further that all local distribution*

*companies and market participants should be bound by confidentiality agreements. Granite Power Corporation stated that the requirement for the disclosure of information must be explained and rationalized as disclosure of system design and augmentation may be proprietary and affect ability to compete.*

*Scott & Ayles for Ottawa Hydro suggested that Condition 9 could be drafted so as to clarify the 2 types of information to be provided: (i) information that shall be disclosed relating to system capability, and (ii) information that shall not be disclosed unless its disclosure is required by market rules or OEB approved Codes or standards. Ottawa Hydro (in its staff submission) stated that the provision of information should only be provided to other market participants "upon request". Nepean Hydro sought clarification as to the purpose of providing information to other market participants. Waterloo North Hydro suggested that clarification is required as to how the provision of information in respect of "system capability" will be addressed (i.e., voltage, class, area). Union Gas suggested there might be a benefit in considering the "materiality" of information to be provided.*

### **Condition 10 Obligation to comply with Codes**

Condition 10 creates an obligation to comply with the Distribution System Code, the Default Supply Code, and the Retail Metering Code (collectively, the "Codes") and the Affiliate Relationships Code, as applicable. The provisions are authorized by Section 70(2)(d) of the OEB Act which specifically authorizes the OEB to require the Licensee to observe technical rules and codes as may be approved by the OEB.

10.1 The Licensee is required to comply with the applicable provisions of the Distribution System Code, the Default Supply Code, and the Retail Metering Code (collectively "the Codes") and the Affiliate Relationships Code approved by the Board.

*Scott & Ayles for Ottawa Hydro, Municipal Electric Association, TransCanada Pipelines and Utilities Kingston noted that the definition of "Codes" does not, but ought to, include the Affiliate Relationships Code.*

10.2 The Licensee shall:

- (a) make a copy of the Codes available for inspection by members of the public at each of its customer service locations and its head office during normal business hours, and;
- (b) provide copies of the Codes to any person upon request. The Licensee may impose a fair and reasonable charge to recover the costs incurred in providing copies.



*Municipal Electric Association queried whether licensees must pay for copying and whether it is their responsibility to update the Codes.*

- 10.3 The Licensee or the Board may amend any of the Codes by giving written notice to the holders of all licences granted under Part V of the *Act* that are required by their licences to comply with the relevant code.

*Scott & Ayles for Ottawa Hydro and Ontario Hydro Services Company suggested that the amendment of all Codes should involve public consultation. Otherwise, the rationale for different procedures under Conditions 10.3 and 10.5 needs to be clarified.*

*Whitby Hydro Electric Commission and Oakville Hydro suggested that Condition 10.3 should not require the Licensee to give written notice to licence holders or to amend the Codes. Ottawa Hydro suggested that Condition 10.3 should only allow either OEB or Licensee to “request” amendments to Codes. Central Market Operations suggested that a Licensee’s ability to amend Codes could lead to “self-serving” behaviour.*

- 10.4 An amendment does not take effect unless and until:

- (a) all holders of licences granted under Part V of the *Act* that are required by their licences to comply with the relevant code have been given an adequate opportunity to make comments with regard to the proposed amendments, and;
- (b) the Board has approved the amendment by giving written notice to that effect to the Licensee and holders of all licences granted under Part V of the *Act* that are required by their licences to comply with the relevant code.

- 10.5 Amendments to the Affiliate Relationships Code shall be made by the Board following public consultations and notice of the proposed changes. Either the Board or the Licensee may propose amendments. The Board shall ensure that all holders of licences requiring compliance with the Affiliate Relationships Code shall have an opportunity to provide submissions with respect to the proposed amendments prior to determining the appropriateness of the amendments. Notice shall be provided in the form and manner determined by the Board. Amendments shall take effect on the date determined by the Board set out in its written notice approving the amendments.

*TransCanada Pipelines stated that the scope of public consultations in respect of amendments to the Affiliate Relationships Code should be broadened so customers, other Licensees, and the public can propose amendments in addition to the OEB. Sunoco*

*commented that the OEB Act does not mention the option of an oral hearing but endorses the oral hearing for purposes of amendments to the Code.*

- 10.6 The Board may require the Licensee to establish or participate in industry groups to develop new or amended codes to deal with procedures or standards related to the operations of the Licensee or to address specific industry matters. Such codes and or standards shall have no effect or force on the Licensee until they have been approved by the Board. Such codes or standards shall be considered to be included in condition 10.1 once they have been approved by the Board.

*Nepean Hydro and Municipal Electric Association advised that requiring the Licensee to undertake compulsory participation in industry groups is not necessary and such participation should not be mandatory. Bennett Jones agreed and further stated that such required participation is not authorized by the OEB Act or the Electricity Act, 1998. Ontario Hydro Services Company noted that the condition gives the OEB the authority to approve the Codes. If an industry group has negotiated a consensus code, then the OEB should either approve or reject the code. If some industry members do not support such code, then the OEB ought to exercise its judgement.*

- 10.7 Subject to the Licensee's ability to do so under any of the codes or rules in the licence, if the Licensee becomes aware of a material breach of any of the codes or rules by the Licensee, the Licensee must notify the Board if the material breach in accordance with the guidelines issued by the Board or in absence of such guidelines, as soon as practical.

*Scott & Aylen for Ottawa Hydro and Oakville Hydro raised concerns about the definition of a "material breach", and indicated that criteria should be provided so the Licensee knows when the obligation to report a material breach arises. Waterloo North Hydro made the suggestion that somehow the reporting of material breaches must be reconciled with "self-incrimination".*

### **Condition 11 Obligation to comply with the Market Rules**

The Licensee is required to comply with the applicable provisions of the Market Rules.

### **Condition 12 Non-discriminatory access**

The non-discriminatory access provisions of Condition 12 reflect the provisions of section 26 of the *Electricity Act, 1998*. That section requires a distributor to provide generators, retailers and distributors with non-discriminatory access to its distribution systems.

- 12.1 If a request is made by a licensed generator, distributor, retailer, wholesale supplier, wholesale buyer or consumer to the Licensee, consistent with the Market Rules and any codes or standards published by the Board, to convey electricity using the Licensee's distribution system, the Licensee must convey electricity on behalf of the party.

*Bennett Jones stated that the OEB may publish "any codes or standards" regarding non-discriminatory access and suggested that the legislation does not authorize OEB to do so. Granite Power Corporation stated that there are potential customers (generators) which can compromise the safety of the distribution system or cause interference or degradation of supply to existing customers due to the type of load that is applied.*

*Scott & Ayles for Ottawa Hydro noted that Condition 12.1 requires access to be made to other distributors in addition to "generators, retailers and consumers" as stated in s. 26 of the Electricity Act, 1998. As such, the Licence and OEB Act are inconsistent and "other distributors" should be deleted from the Licence. It was also suggested that Conditions 12.1 and 12.2 be merged for clarity. Drafting is advised such that an "absolute obligation to convey electricity" is subject to an "exception where insufficient capacity".*

- 12.2 The Licensee shall not be required to make an offer if it is determined that there is insufficient capacity on the Licensee's system to provide the requested service. Any question as to the reasonableness of the Licensee's determination under this condition shall be subject to determination by the Board.

*Central Market Operations noted that Condition 12.2 appears to give priority rights to existing load and generation and questioned whether this was the intent. Bennett Jones advised that the limitation on non-discriminatory access ought to be a test of "reasonableness" rather than of "insufficient capacity". Municipal Electric Association also queried whether "insufficient capacity" is the only ground upon which not to make an offer, and further commented that the requirement to make an offer should clarify that the "offer" is to provide distribution service. Ontario Hydro Services Company commented that if capacity is insufficient, the OEB should be precluded from ordering that the connection be made in any event, unless the requester of connection pays a fair portion of the cost of additional capacity.*

- 12.3 Any question over the terms of an offer to provide distribution service shall be subject to determination by the Board. Distribution service shall be provided in compliance with the Rate Order.

*Scott & Ayles for Ottawa Hydro commented that Condition 12 contemplates disputes arising in respect of access. It is not clear whether the Director has the power to resolve such disputes as suggested by the cover memo prepared by OEB staff. Section 5(1) of the*

*OEB Act limits Director's jurisdiction to powers under any Act. It was suggested to pass a regulation under s.126(1) of the OEB Act authorizing the Director to make such decisions with appeal rights to the OEB. Chatham-Kent PUC suggested that OEB determinations could be unmanageable and accordingly, an appeal process is required.*

### **Condition 13 Obligation to connect**

This provision derives its statutory authority from section 28 of the *Electricity Act, 1998* which requires a distributor to connect a building to its distributions system under prescribed circumstances.

- 13.1 If a request is made for connection to the Licensee's distribution system or a change in the capacity of an existing connection, the Licensee must make an offer to connect within 30 days, provided the request includes all information reasonably required by the Licensee to determine its ability to offer a connection contract. The contents of the request shall at a minimum include any information required by the Distribution System Code.

*Bennett Jones suggested that this obligation is premature until s. 28 of the Electricity Act, 1988 is proclaimed. Toronto Hydro commented that the requirement for the Licensee to make an offer to connect within 30 days may not be reasonable for new commercial, institutional or industrial service as it may take longer to connect new, large commercial facilities. Ottawa Hydro (by staff submission) thought that this condition may be interpreted as requiring "connection" within 30 days. Mississauga Hydro and Municipal Electric Association reinforced these concerns. Waterloo North Hydro questioned whether the 30-day time frame to offer to connect includes any time required to do engineering or construction and whether the offer may include cost recovery?*

- 13.2 If sufficient information is not provided in the request the Licensee shall inform the party requesting service of the deficiencies and allow sufficient time for the party to comply with the request for additional information. Any dispute over the requirement for additional information by the Licensee shall be determined by the Board.

- 13.3 Should the Licensee require a system planning study or other extensive review prior to making an offer it shall inform the party that is requesting service.

*Oakville Hydro stated that the party requesting service should bear all costs (i.e., the system planning study or other extensive review). Ontario Hydro Services Company, Scott & Ayley for Ottawa Hydro and Ottawa Hydro (by staff submission) queried who bears the cost of the system planning study or other extensive study prior to making an offer.*

- 13.4 An offer shall be consistent with the terms of the Rate Order and the Distribution System Code.

*Municipal Electric Association queried whether capital contributions are addressed.*

- 13.5 An offer must be reasonable. To the extent there is any question as to the reasonableness of an offer either party may request the Board to determine the reasonableness.

*Oakville Hydro proposed that Condition 13.5 clarify “reasonable” and queried whether the Board of Directors of the Distributor has a role in assessing the “reasonableness” of requests prior to a determination by the OEB. Granite Power Corporation stated that the OEB must recognize that the connection must be reasonable under the circumstances so that customers do not require substantial connection upgrades, only to close or downsize, and accordingly, conditions for customer upgrades may be required to protect against this.*

*TransCanada Pipelines stated that the OEB should consider the situation where there is insufficient capacity to make an offer in which case, the Licensee should be required to offer alternatives. TransCanada Pipelines also advised that the condition should state that a Licensee shall not make an offer or act in a manner that is “unjust, unreasonable, unduly preferential, arbitrarily or unjustly discriminatory or inconsistent with or in contradiction of any other statute or law”. Chatham-Kent PUC and Ottawa Hydro (staff submission) stated that OEB determinations as to “reasonableness” could open floodgates in respect of offers to connect and questioned whether a system was in place to deal with numerous requests.*

- 13.6 The Licensee shall not refuse to make an offer unless it is permitted to do so by the Act or any codes, standards or rules to which the Licensee is obligated to comply with as a condition of this licence.

*Scott & Ayley for Ottawa Hydro noted that a Licensee can refuse to make an offer to connect if it is not required to do so under any Codes or the OEB Act, and queried whether the OEB will determine the “reasonableness” of such a decision or offer.*

#### **Condition 14 Obligation to supply**

*The obligation to supply arises from section 28 of the Electricity Act, 1998 which provides that a distributor shall sell electricity to every person connected to the distributor’s distribution system, except a person who advises in writing that the person does not wish to purchase electricity from the distributor.*

- 14.1 The Licensee shall sell electricity or ensure that electricity is so supplied to every person connected to the Licensee's distribution system in accordance with the Rate Order and the Default Supply Code approved by the Board.
- 14.2 Where the proclamation of section 28 of the *Electricity Act, 1998* occurs during the term of this licence, the Licensee shall fulfil its obligation to sell electricity to consumers consistent with the terms and conditions approved set out in the rate Order and the Default Supply Code.

*Granite Power Corporation stated that Condition 14.2 may not be authorized until the Electricity Act, 1998 is proclaimed. Scott & Ayley for Ottawa Hydro noted that Conditions 14.1 and 14.2 are inconsistent in language because of the use of supply to "every connected person" (in 14.1) and the use of sale to "consumers" (in 14.2). Consistent language is recommended for both.*

- 14.3 The Licensee shall be relieved of its obligation under condition 14.2 in the case of a consumer that advises the Licensee that it does not wish to purchase electricity from the Licensee as provided for under section 28 of the *Electricity Act, 1998*.
- 14.4 *Oakville Hydro recommended that a new section 14.4 read: "The Licensee will use reasonable diligence to provide uninterrupted service, but cannot guarantee such service and is not liable if such service is not provided."*

*Sunoco recommended the eventual elimination of default supply commenting that the favour enjoyed by the incumbent distributor or affiliate is a barrier to entry and will limit the customer's opportunity for competitive market offerings.*

*There was some consensus that the Licence or the Distribution System Code ought to recognize rights of disconnection. Canadian Niagara Power Company and Municipal Electric Association stated that the obligation to supply should reference the corresponding section of the Distribution System Code dealing with the right to disconnect for non-payment. Waterloo North Hydro and Granite Power Corporation stated that the condition does not recognize that a Licensee may have to withdraw supply from a given customer because of non-payment, safety, electrical disturbance and orders from a local government authority (i.e., fire department).*

*Borden & Elliot for Ajax Hydro, Brock Hydro, Clarington Hydro, Pickering Hydro and Uxbridge Hydro commented that default supply obligations should be fulfilled either through the licensed distributor or the retail affiliate of a distributor and that the licensed distributor and the retail affiliate of a distributor should be able to provide a full range of services and products to its default supply customers. The manner in which default supply customers are to be serviced requires clarification in addition to whether they can be offered the full range of services which*

*any retail affiliates of the Utilities may offer. Municipal Electric Association also commented that no mention is made of the requirement to provide the spot market price pass-through.*

### **Condition 15 System Integrity**

The Licensee shall maintain its distribution system to the standards established in the Distribution System Code, Retail Metering Code, Market Rules and having regard to any other industry recognized operating standard specified by the Board.

*Port Hope Hydro stated that there should be reference to Safety Codes. Granite Power Corporation stated that this condition should include references to standards so that both customers and Licensees are aware of basic power standards (for example the CSA standards for demand voltage should be referenced to prevent customers from demanding voltage far in excess of the CSA standards).*

### **Condition 16 Separation of Business Activities**

The separation of business activities conditions generally stem from section 71 of the *OEB Act* requirement that a distributor shall not carry on any business activity other than distribution, except through an affiliate corporation.

- 16.1 The Licensee shall maintain separate accounting and financial records with respect to its distribution business activity in the manner and form approved by the Board.
- 16.2 The Licensee shall provide separate audited financial statements for its distribution business activity. The Board's authorized officials shall have access to the financial accounts and statements for the purpose of verification and audit.

*Windsor Utilities Commission stated that it would be more efficient if the condition required that Licensees' audits included specific verification to the OEB. Scott & Ayles for Ottawa Hydro stated that this requirement extends beyond s. 72 of OEB Act (which requires separation of financial records) by requiring Licensees to provide audited financial statements. This will be expensive in general and in particular for MEUs who are permitted to carry on all electricity business functions.*

*Scott & Ayles also commented that the obligation to provide audited financials should not arise until MEUs have completed their restructurings under the Business*

*Corporations Act (Ontario). Granite Power Corporation commented that the Licence should recognize that if the OEB requires audited financial statements, this should cancel any need for a further audited verification of financial matters.*

- 16.3 The Licensee shall conduct operational and compliance audits to determine its adherence to the Affiliate Relationships Code and to demonstrate the separation of its distribution service business activity from any other business activity of the Licensee; including any retail activity.

*Oakville Hydro stated that the goals of Condition 16.3 could be achieved under Condition 16.2 to avoid duplication of costs. It along with Waterloo North Hydro also commented that the requirement of operational and compliance audits to ensure separation of business activities would be expensive, and made the suggestion of a signed statement from management confirming the required separation is in place. Union Gas remarked that there may be a less costly and less onerous requirement than the “audit” to monitor compliance with codes. Municipal Electric Association queried as to what is meant by “any other business activity” and commented that, it should not exclude peripheral activities like tree trimming.*

- 16.4 The Licensee shall not engage in the retailing or generation of electricity except with the prior approval of the Board and under such conditions as the Board may impose.

*Toronto Hydro stated that as OEB approval is required for a distributor to generate and retail electricity also, when will such approval system be in place? Scott & Ayles for Ottawa Hydro and Chatham-Kent PUC commented that this condition seems to permit a Licensee to operate multiple electricity activities through one corporate entity but the OEB Act only allows distributors to carry on other businesses through affiliates.*

- 16.5 The Licensee shall maintain separate accounts with respect to any activities conducted as part of its distribution services but for which the Board does not establish charges in the Rate Order. Such activities shall require prior approval of the Board and may include activities undertaken to manage load and to ensure required emergency service to consumers. Note: This provision would permit the continuance of ancillary activities such as water heater rentals, lighting and other current ancillary activities of the distributors.

*Canadian Niagara Power Company Limited stated that this requirement should not be too stringent or will reduce opportunities for cost savings. Further, for companies with transmission and distribution licences, the OEB should allow both distribution and transmission costs to be tracked in one financial statement with separate accounts for distribution and transmission activities as permitted by Condition 16.5.*



*Central Market Operations found that the condition implies that load control programs would be the responsibility of the Distributor, not the retail competitive affiliate. Ottawa Hydro noted that the condition should be clarified so that if distribution services are assigned to the competitive affiliate, they are of no concern to the OEB. Scott & Ayles for Ottawa Hydro noted that this condition extends OEB's licensing power beyond its s.57 activities in the OEB Act and the scope of services in the Rate Order. It also noted that the condition states a Licensee must maintain separate accounts for separate activities related to distribution services. Segregation of accounts is impractical and inconsistent with the statute.*

*Sunoco commented that it is imperative that the OEB identify which functions are natural monopolies and which are competitive. It also questioned the need for distribution companies to require ownership of services in order to take advantage of the load balancing function. Load balancing has the potential to be used by distribution companies to limit competitive retailers' abilities to create the new market.*

*Ontario Hydro Services Company advised that the only obligation on the Licensee ought to be to demonstrate accounting separation and no undue cross subsidization between regulated and unregulated activities. It had concerns that the condition could bring non-utility competitive activities under OEB regulation depending on whether the Licensee is held by Servco or a wires subsidiary.*

### **Condition 17 Distribution Rates**

The Licensee shall not impose charges or terms of service for the distribution of electricity or other distribution services except in accordance with the Rate Order and Performance Standards Handbook.

*Granite Power Corporation stated that this condition should require that land developers pay for electricity infrastructure required for their respective developments. Ontario Hydro Services Company suggested that "Rate Order and Performance Standard Handbook" could refer to one or two documents and should be clarified.*

### **Condition 18 Expansion of distribution wire system**

18.1 The Licensee shall not expand or reinforce its distribution system or the capacity of its distribution system except in accordance with the standards set out in the Distribution System Code approved by the Board. Any expansion of the Licensee's system shall be subject to the Board's approval.

*Union Gas, Chatham-Kent PUC, Granite Power Corporation, Canadian Niagara Power Company Limited, Oakville Hydro, Toronto Hydro, Utilities Kingston, Bennett Jones, Ottawa Hydro, Nepean Hydro, Municipal Electric Association, Waterloo North Hydro,*

*Mississauga Hydro, Ontario Hydro Services Company, and Port Hope Hydro all suggest that OEB approval should not be required for “any” expansion or reinforcement of distribution systems. Alternatively, there ought to be thresholds set forth such that expansion could occur under certain circumstances (i.e., expansion in excess of \$100,000). Scott & Ayley for Ottawa Hydro noted that, as currently drafted, any “expansion” of a Licensee’s system shall be subject to OEB approval and queried whether it is the intent to exclude “reinforcement” from such OEB approval.*

- 18.2 In order to ensure and maintain reliable and adequate capacity the Board may also require the Licensee to expand or reinforce its distribution system in accordance with the Distribution System Code and in such a manner as the Board may determine.

### **Condition 19 Disposal of assets**

The Licensee shall not sell, lease or otherwise dispose of its distribution system as an entirety or substantially as an entirety or any part of its distribution system that is used or useful in serving the public without first obtaining the approval of the Board.

*Bennett Jones stated that OEB and the Director’s approval should be required. Ontario Hydro Services Company recommended that disposals should not require OEB approval in the ordinary course of the distribution business.*

### **Condition 20 Obligation to offer to provide services to other distributors**

- 20.1 Where a distributor requests the Licensee to offer to provide to it services to facilitate the distribution of electricity by it, such as: a) power transfer capability services; b) reactive capacity at relevant points of connection; c) control protection and monitoring services d) metering services or to allow the distributor to use poles, trenches, conduits, remote operations equipment etc., the Licensee is required to make such an offer within 30 days. The Licensee is not required to make an offer if in its determination the provision of the requested service is not feasible due to constraints on its distribution system.

*Granite Power Corporation stated that this condition should be removed as this could amount to cross-subsidization between companies and/or anti-competitive compensation by one company to another. Windsor Utilities Commission queried how a distributor could be required to service another distributor if there is exclusivity to service areas. Nepean Hydro and Union Gas stated that this condition should be clarified as to what a distributor can offer to provide to other distributors.*

- 20.2 An offer must be reasonable. To the extent there is any question as to the reasonableness of an offer either party may request the Board to determine the

reasonableness.

### **Condition 21 Performance standards**

The Licensee shall conduct its business in the manner in which it reasonably considers as necessary to achieve any standards of performance determined by the Board pursuant to section 82 of the *Act*.

*Bennett Jones stated that standards should be limited to those standards adopted by the OEB. Waterloo North Hydro noted that the OEB has to recognize that each utility has a different system design and maintenance making it difficult to apply a uniform standard for compliance.*

### **Condition 22 Customer complaint and dispute resolution**

The Licensee shall:

- (a) establish administrative procedures for resolving customer complaints and providing redress to customers under the customer connection service contract or standard service offering;
- (b) publish information which will facilitate its customers accessing its complaints handling process;
- (c) subscribe to a third party complaints handling agency which has been approved by the Board;
- (d) make a copy of the procedure available for inspection by members of the public at each of the relevant premises during normal business hours;
- (e) give or send free of charge a copy of the procedure to any person who requests it.

*Oakville Hydro commented that there is no need for a residential customer connection service contract under Condition 22 due to costs and inconvenience. Canadian Niagara Power Company felt that this condition belongs in the Distribution System Code. Toronto Hydro questioned the appropriateness of the condition for publicly owned and accountable utilities.*

*Granite Power Corporation stated that if the OEB chooses to intervene in customer complaints, then a Licensee should be able to initiate a dispute through the OEB against the OEB, the transmission company, the energy supplier, and individual customers.*

*Scott & Ayles for Ottawa Hydro commented that the OEB's statutory authority to impose an alternative dispute resolution mechanism needs to be clarified. If the authority does*

*exist, then it needs to be determined whether the process should be limited in its application to low volume customers.*

*Sunoco suggested that third party complaints be provided by the Ontario Energy Marketers' Association which has a fully functioning call centre. Chatham-Kent PUC questioned the necessity of subscribing to a third party agency.*

**Condition 23 Communication**

- 23.1 All communication related to this licence shall be in writing;
- 23.2 All communication is to be regarded as having been given by the sender and received by the addressee
- (a) when delivered in person to the addressee either by hand or by courier;
  - (b) 5 business days after the date of posting, if the communication is sent by registered mail; and,
  - (c) when received by facsimile transmission by the addressee as confirmed by the sender's transmission report.

*Bennett Jones and Municipal Electric Association stated that the writing requirement in respect of all correspondence vis-à-vis licences is cumbersome and should allow for electronic mail transmission.*

## ***Associated Codes***

### **Distribution System Code**

There ought to be a consideration of the relationship between distributors and local government in their service areas. There should be a standardized agreement for operations work performed by a distributor or municipality which affects the other (Enbridge Consumers Gas). The code does not appear to make allowances for different level of service to different customers (i.e., residential, industrial, commercial, rural).

#### **1. Obligation to connect**

Overhead vs. underground services should be considered (Utilities Kingston). The obligation to connect should refer to Distributor Service Standards outlined in section 17.

Grounds for refusal to connect – a reference to section 17 (Service Standards) should be made. Failure to meet requirements outlined in the Standards would be grounds for refusal to connect. Failure to secure and pass an inspection by the Ontario Electrical Safety Authority should be grounds for refusal to connect (Municipal Electric Association).

Rights and Obligations of Party Requesting Service – a reference to section 17 should be included. The Code should clearly state that the “Party Requesting Service” is responsible for compliance with the Ontario Electrical Safety Code and for obtaining necessary permits and inspections from the Ontario Electrical Inspection Agency (Municipal Electric Association).

Allocation of costs – there must be sufficient cost recovery from the users of new connections and those that cause distribution system elements to be built for their own supply. Wording should leave no doubt as to who pays for what (Oakville Hydro).

Connection by distributor – connection should only be done by the Distributor (Municipal Electric Association).

Limitation on Obligation to Connect – there should exist criteria that limit the obligations of the Distributor to connect. It might be appropriate to refer to the Standards set out in section 17. Examples of criteria include: length of service

conductor; supply voltage; transformation distributors specifying the maximum transformation provided (Municipal Electric Association).

Connection by qualified technician – should be amended to read “qualified personnel”. There exists a range of distribution company personnel who are qualified (e.g., meter technicians, linemen).

## **2. Disconnection**

Majority of disconnections and reconnections are a result of payment problems so the role of the LDC needs to be defined (e.g., does the LDC disconnect for non-payment of the retail company portion or a partial payment?). The need for safety should be recognized (Oakville Hydro).

Circumstances where a distributor might disconnect service – distributors should have the option to disconnect customers that introduce power disturbances such that other customers are not adversely affected. Process for disconnection of competitive retailers’ customers should also be addressed (Municipal Electric Association).

## **3. Re-connection**

Reconnection must address charges and must be done in compliance with the Ontario Electrical Safety Code which requires an inspection by the Electrical Inspection Agency.

Where a customer demands after hours re-connection, can the distributor charge additional costs (Utilities Kingston)? Should consider cases where a retailer provides billing services (Sunoco).

## **4. Non-discriminatory access**

Grounds for refusal to offer access - The role of Ontario Hydro Inspection or its successor should be identified to protect the public interest (Oakville Hydro). System constraints may restrict connection of a new load (Municipal Electric Association).

## **5. Responsibility to provide information**

Distributor’s Obligations – local requirements should be considered. For example, Mississauga Hydro and Oakville Hydro pointed to the possible need for language translation services. Should consider cases where a retailer provides billing services (Sunoco).

Customer's Obligations – is failure to provide information grounds for disconnection (Municipal Electric Association)?

Supplier Guaranteed Service Levels – “Supplier” should be reworded to “Distributor” (Municipal Electric Association).

Nepean Hydro questioned the intent of “customer's quality of service obligation” pointing out that industry standards for service are difficult to achieve.

## **6. Customer Billing**

Customer's bills – Requirements for payment terms and late payment charges should be identified. Process for collecting “true-ups” under spot pricing should be identified (Oakville Hydro). Should consider cases where a retailer provides billing services (Sunoco). Billing should also consider partial payments and unbundling (Municipal Electric Association).

## **7. Settlement Procedures**

What are “prudential requirements” imposed on competitive retailers by the distributor (Chatham-Kent PUC)?

## **9. Customer owned system requirements**

This part of the Code should allow for flexibility. The demarcation point between customer-owned and utility-owned equipment varies according to local conditions, particularly with industrial customers where the maximum level of transformation provided will determine whether the customer owns any high-voltage facilities (Municipal Electric Association).

Who is required to ensure that an inspection is performed (Utilities Kingston)?

System requirements should include fault levels, co-ordination of protection devices, safety/operating criteria (Hamilton Hydro Electric System).

Consideration should be given to required in-service date and load details (e.g., motor sizing, welding equipment and other unusual loading profiles) (Oakville Hydro).

Customer's General Obligation – Code should specify that customers are responsible for maintaining their own equipment, and such equipment must comply with the Ontario Electrical Safety Code (Municipal Electric Association). Additional

considerations under section 9 should include: fault levels; coordination of protection devices; and operating criteria (Municipal Electric Association).

## **11. Distribution system requirements**

Maintenance Practices/Targets – In a PBR system, benchmarks are established for the distribution system and the efficiency of the distributor. The distribution system should state clearly that the distributor is obligated to maintain its system in a manner consistent with the performance benchmarks established by the OEB. The Code should not delve into details concerning utility maintenance practices. There is no “one size fits all” solution for maintenance of systems (Municipal Electric Association).

## **12. System expansion and reinforcement**

It may be advisable to distinguish between expansion and reinforcement. Examples of the latter are: conversion to a higher distribution voltage; installation of remote operated switches on distribution feeders; installation of additional circuits on an existing pole; construction of a line to “close the loop” on radial feeders (Municipal Electric Association). Many utilities perform expansion and reinforcement work in-house and there may be good business reasons for continuing this practice (Nepean Hydro).

Competitive tendering process - any utilities have different practices regarding the use of contractors and its own employees for construction and maintenance activities. Therefore there might be different interpretations of what is a “competitive tender” (Toronto Hydro). Mississauga Hydro stated that competitive tendering should be covered by PBR performance requirements. Competitive tendering process to perform expansion and reinforcement – most LDCs have in-house staff to perform construction and maintenance work. The split between in house staff and contract should be handled by LDC. The OEB should understand there are serious labour relations issues associated with tendering work which has been traditionally performed by utility personnel. Any requirement of mandatory competitive tendering must have a phase-in period to enable distributors and organized labour to deal with the issues.

## **14. Quality of Supply**

“Quality” is difficult to define because quality expected and delivered is not the same for all customers (Sunoco). Quality of service expected and delivered is not the same for all classes of customers (Municipal Electric Association). Is quality of supply to be considered in the context of the retailer providing electricity supply or is this addressed in the arrangements between distributor and retailer (Sunoco)?



Customer compensation for damage to customer's property caused by the fault of the supplier – LDC liability is limited in that the supply of power is not guaranteed. This statement may affect LDC insurance coverage if business losses are covered (Mississauga Hydro). Clarification is required because power disturbances such as voltage dips, surges, lightning strikes, among other events affect customers to varying degrees (Hamilton Hydro Electric System and Municipal Electric Association).

### **15. Reliability of Supply**

Customer obligations – if the LDC is required to conform to PBR and/or pay customers for damages then customers should be assessed a penalty for outages caused by them and be forced to perform maintenance on customer owned equipment (Mississauga Hydro).

Reliability is anticipated to be a PBR criteria and should thus not be addressed through prescriptive standards. During emergencies, distributors should have the right to prioritize the load supplied and work efforts (Municipal Electric Association).

### **16. Safety of Supply**

Obligations of distributor – main obligation is to comply with applicable health & safety legislation (e.g., *Ontario Health and Safety Act*). Distributors should be active in public safety awareness programs (Municipal Electric Association).

Customer obligations – customers must comply with the Ontario Electrical Safety Code and applicable safety legislation.

Safety compliance of electrical work in customer premises – currently utility systems and customer equipment are subject to different standards (e.g., utilities set their own standards and customers are subject to the CSA standards in the Electrical Code). Changes to such arrangement may have an impact on LDCs and equipment costs (Mississauga Hydro).

### **17. Service Standards**

OEB should not achieve one set of service standards for the province. Distributors should be required to document their standards so that they can be communicated to and understood by all parties requesting service. Service standards will deal with subjects including: distance the distributor will supply service from existing line; standard voltage; maximum transformation provided by distributor;

overhead vs. underground; service entrance location; bulk or individual metering; size/type of service (Municipal Electric Association).

### **19. Health and safety requirements**

Issues governed by the EUSA and the Ministry of Labour are not required to be governed under this Code (Granite Power Corporation). There is debate over magnetic and electric fields and their effects. This reference in the Code is of concern. As utilities currently operate under the *Occupational Health and Safety Act*, this section should not impose any new regulatory requirements (Municipal Electric Association).

### **20. Environmental protection requirements**

Issues governed by the Ministry of the Environment are not required to be governed under this Code (Granite Power Corporation and Municipal Electric Association).

### **21. Emergency and safety procedures**

Distributor must have the right to prioritize the load supplied and work efforts to enable the most effective response to the situation.

## **Default Supply Code**

It was suggested that there is a need for prohibition on retroactive adjustments to electricity supply rates. In the natural gas industry, retroactive one-time debits or credits to customers to clear PGVAs fail to send the correct price signals to the market and artificially escalate rates.

### **1. Obligation to sell electricity**

Transfer from retailer to distributor for non-payment – under what conditions and what is the distributor's obligation.

### **2. Customer Billing**

Should consider prepayment and late payment.

**[Numbers 3 and 4 were skipped in drafting]**

## **5. Settlement Procedures**

Should consider late payment charges and what happens when a customer does not pay (can a retailer transfer consumer to a distributor for non-payment?).

## **6. Consumer transfer process**

Notification of transfer should set out the form of notification required and by whom for transfers between competitive retailers. It is necessary to add the issue of “Rules regarding transfer from the distribution company to the affiliate”. There is concern about the potential for creating an uneven playing field if the affiliate can assign the portfolio of all default supply customers. This would be a barrier to entry for competitive retailers. The OEB has the opportunity to harmonize the rules for electricity and natural gas. In the natural gas context, distribution companies provide “default” supply or “system” supply and affiliates do not provide system supply and are thus not favoured with the transfer of the entire customer portfolio. Affiliates must compete with all retail gas providers. How will LDC’s recover the costs of transfers? What are the retailers’ obligations in respect of transfers?

“Return to default” suggests an automatic process is triggered after a specified time period. Thus, the word “return” should be replaced with “transfer”.

## **Retail Metering Code**

Municipal Electric Association, Bennett Jones, Oakville Hydro, Granite Power Corporation, Hamilton Hydro Electric System, Nepean Hydro and Mississauga Hydro have all stated that this Code falls under the federal jurisdiction and is enforced by Measurement Canada pursuant to the *Electricity and Gas Inspection Act*. The thrust of the following comments were submitted by Mississauga Hydro.

### **1. Responsibility for retail metering installations**

Role and responsibility of meter service organizations and data collection services should be addressed as well as an inclusion on “approval of type”. Reverification of meters and compliance sampling should be addressed.

Responsible person – responsibility should remain with LDC for all metering installations.

Election of market participant to be responsible for providing and maintaining metering installation – customers should be allowed to provide and maintain their metering.

## **2. Installation and Ownership of metering equipment**

Obligation to install and remove – LDC should be obligated to install, maintain and remove meters. Cost recovery mechanisms should be allowed for LDC.

Ownership – LDC should have ownership of all meters connected to its system. It will be too inefficient to conform to Measurement Canada regulations.

Installation – Installation of metering equipment should be responsibility of LDCs and to their standards. This ensures proper and consistent metering to all customers within a service area.

Pulse output facilities – If available, many customers request pulse outputs from the meters and should be chargeable directly or through the ESP. The charge should be based on actual costs to install the equipment. LDC should have the ability to refuse such requests should the equipment required threaten the reliability of billing equipment.

Check metering – typically occurs on the load side of the revenue meter and is the responsibility of the customer. It is not subject to utility regulation but is subject to Measurement Canada regulations.

The OEB must look at the issue of obsolescence of meters and the stranding of investment with customers moving to the competitive suppliers and pulse metering. Installation and ownership should consider location of meter, accessibility of meter, equipment security, and liability, and accredited meter shops.

## **3. Retail metering installation arrangements**

Metering installation components – are the responsibility of the LDC. An ESP can request a specific piece or type of equipment be installed at a customer site but would be responsible for incremental costs involved to upgrade from standard installation.

Connection and metering point – should be subject to regulations and approved by the LDC to ensure consistent metering for all customers.

Meter types and minimum standards of accuracy – metering equipment must be consistent with Measurement Canada.

Storage – LDC will be responsible for maintaining sufficient inventory level to be able to maintain metering installations for all customers.

Data Collection System – should be responsibility of LDC.

Payment for metering – a process must be in place for the LDC to recover costs involved in operating and maintaining both physical metering equipment and meter record systems.

#### **4. Sealing**

Topics to be addressed should include: sealing of the meter at the time of initial verification; sealing of the meter at the time of verification; security lock and seal at the time of installation; sealing tools and methods; and responsibility for checking seals are intact when meters are read.

Seals – regulations regarding seals should be consistent with Measurement Canada regulations.

Broken seals – should be reported to the LDC and meters should be investigated and replaced.

#### **5. Metering data management**

Responsibility – of the meter owner (LDC).

Qualifications/accreditation/registration of service providers to be regulated by Measurement Canada.

#### **6. Register of retail metering information**

It is not clear what this section is designed to address. In metering terminology the word “register” refers to a component on a meter. This title infers management of a database of metering information. The reference to “metering register discrepancy” suggests what is referred to as “dispute testing” in the *Electricity and Gas Inspection Act*. If this is the intent, other terminology such as “dispute testing procedures” may be advisable.

## **7. Maintenance Testing**

The subject of reverification and compliance sampling is missing from the Code and ought to be included.

Maintenance plan – should be subject to Measurement Canada. Most efficient to have meter ownership by LDC to take advantage of efficiencies of scale.

Transformer metered electrical installations – should be subject to Measurement Canada.

## **9. Defective metering equipment**

Repair or replace – responsibility of meter owner (LDC).

Substitute readings – responsibility of ESP for the customer.

Cost of repair or replacement – responsibility of meter owner (LDC).

## **10. Retail metering and data communications systems**

Standards for meters and communications systems – all parties should have input (LDC, IMO, ESP). Systems should be standardized so information transfer is consistent.

Ownership of metering systems – LDC should be responsible for ownership of the meter and the meter data collection systems at a minimum.

Operational control and data access to metering systems – LDC will collect data and distribute information to parties (LDCs, IMO).

Metering system requirements and 50kW cut-off – should be a transition range in which there are few metering options. Nature of metering makes it physically difficult to create a cut-off based only on demand.

## **11. Rights of access to data**

Collection of metered data – IMO and LDC should have access to information. ESP should be able to obtain information through customer.

Ownership of metered data – LDC owns equipment but ESP can request specific equipment. Data itself should be owned by customer.

Access to metering equipment – owned by LDC and controlled by LDC.

Collection – responsibility of ESP for customer.

Processing metered data from interval metering equipment – responsibility of LDC.

Confidentiality – information can only be distributed to ESP on request of customers.

## **12. Security of retail metering installations and data**

Changes to metering equipment, parameters, settings – performed by LDC but must be made available to ESP.

Changes to metering data – performed by LDC but must be made available to ESP.

## **13. Processing of retail metering data for settlements purpose**

Metering databases – distributed by LDC to affected parties.

Remote acquisition of data – responsibility of LDC.

## **Affiliate Relationships Code**

There is a suggestion that there be subject considering the use of the logo and/or name of the affiliate relationship in advertising. The terms, “customer” and “consumer” are used interchangeably and should be consistent.

### **1. Organizational Separation Rules**

Code cannot impose an undue burden on utilities in terms of separation of services. Utilities should be entitled to achieve efficiencies and cost savings through the

use of shared services. If the Code is too restrictive, utilities will not be able to compete with larger and unregulated organizations.

Will each distribution company obtain only one licence to cover all of its geographic area or must it obtain separate licences for each “franchise”? If A co. has conditions in its licence different from B co. and A co. merges with B co., which conditions prevail?

## **2. Separation of Business Activities**

Prior approval of generation or retail activities should not require OEB approval as this becomes a function of the ESP.

## **3. Sharing of Resources**

Information required by LDC (i.e., metering determinants) should be specified and minimal. Sharing of resources should include sharing of employees.

## **7. Equal Access to Services**

Prohibition on tied selling should be governed by the most cost effective practices for customers and not restricted.

## **9. Transfer Rules for Assets & Resources**

Conditions should be strict which prohibit use of information and resources. OEB’s mandate is to protect the customer and not to manage activities by restricting access.