

**Ontario Energy
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Compliance Bulletin 200401

TO: All Licensed Electricity Distributors and Electricity Retailers

Re: Opting Out of the Two-Tier Electricity Pricing Structure

This bulletin contains important information for distributors, retailers and consumers. The bulletin provides Board staff's interpretation of certain provisions of the *Ontario Energy Board Act, 1998*.

The Board has received a number of inquiries from consumers, electricity retailers and local distribution companies regarding the process of becoming exempt from the legislated commodity price for electricity to low volume and designated consumers. This bulletin clarifies the options and obligations for consumers who do not wish to participate in the statutory two-tier electricity pricing structure.

The legislated fixed pricing structure provides the consumer with their first 750 kWh at a price of 4.7 cents per kWh and the balance at 5.5 cents per kWh. Some consumers may wish to opt out of this pricing regime. Certain large-volume designated consumers have expressed the concern that as they use considerably more than 750 kWh per month, the majority of their consumption will be charged at the rate of 5.5 cents per kWh under the new pricing structure. These consumers are exploring different pricing options and believe that they may be able to arrange for supply at a cost that would be lower than what is charged on the two-tier rate.

Option #1

A low-volume or designated consumer may enroll in a contract with an electricity retailer.

In this situation the consumer will be charged the contract price, and the payment of any applicable rebate is determined by the terms of the contract. However, under current legislation, upon expiry or termination of the contract, the consumer would not return to the legislated fixed price, even if a legislated fixed price remains in place. In that instance, the consumer would then be charged based on the spot market rates, as applied to the Net

System Load Shape. The Net System Load Shape is the average usage pattern on non-interval metered customers.

Legal References:

Section 79.4(1) of the *Ontario Energy Board Act, 1998*, states:

Despite section 79.3, despite any order under section 78 and, subject to subsection (6), despite any agreement to the contrary, the commodity price for electricity payable by a low-volume consumer or designated consumer is,

(a) with respect to electricity used on or after the day this clause comes into force (April 1, 2004) and before May 1, 2005, or such earlier date as is prescribed by the regulations, the price determined in accordance with the regulations.

Section 79.4(5) of the *Ontario Energy Board Act, 1998*, states:

Subsection (1) does not apply to a consumer if, after December 9, 2002, the consumer renews or enters into a contract with respect to which a service transaction request as defined in the Retail Settlement Code is or has been implemented to enable the consumer to purchase electricity from a competitive retailer as defined in the Retail Settlement Code.

Option #2

A consumer may file a request with a local distribution company to be exempted from the legislated fixed prices.

However, in order to qualify for this exemption, the consumer is required to have an interval meter. In this case, the consumer would pay the spot market price and would be eligible for any applicable rebate. Also, the consumer may not return to the legislated price at a later date.

Legal References:

Section 79.4(2) of the *Ontario Energy Board Act, 1998* states

Subsection (1) does not apply to a consumer if,

(a) the consumer files a written statement with,
 (i) the distributor with whom the consumer has an account, if the consumer is not a market participant, or
 (ii) the IMO, if the consumer is a market participant, indicating that the consumer does not wish to have subsection (1) apply to the consumer; and

(b) at the time the statement is filed under clause (a), a regulation prescribing criteria for the purpose of this clause is in force and those criteria are met.

Section 5 of Ontario Regulation 339/02 states:

For the purpose of clause 79.4 (2) (b) of the Act, the criterion that must be met is that the statement filed by the consumer under clause 79.4 (2) (a) of the Act must relate to a property for which an interval meter is used for billing purposes to measure the amount of all electricity used.

This information is provided to assist you in clarifying any questions from low-volume or designated consumers who wish to become exempt from the legislated commodity price for electricity, and does not constitute legal advice. For more information, please contact Paul Gasparatto, Licensing Analyst, at (416) 440-7724.

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