

Discussion Paper:
Unpaid Electricity Charges
(RP-2004-0166)

INTRODUCTION

The purpose of this document is to provide background and rationale for proposed amendments to the Distribution System Code ("the Code") and to identify specific issues on which the Ontario Energy Board ("the Board") is seeking comment.

The Board is seeking comment on proposed amendments to the Code, offering opportunity for both written and oral presentations.

PROPOSED AMENDMENTS

Clarifying Liability

The proposed amendments will clarify the distributor's rights and obligations with respect to assigning liability for unpaid electricity charges. The proposed amendments will also clarify the distributor's rights in the event of non-payment of a security deposit. The Board has received complaints from property owners and managers, and tenants who argue that they have been unfairly burdened with amounts owed by a third party. For example, in many of these situations, the distributor has refused to reconnect a property due to unpaid tenant electricity bills, charges owing from unauthorized energy use or damage to distribution assets caused by a former tenant. At least one distributor has amended its Conditions of Service to require the owner of a property to pay a tenant's debts to the distributor before providing new service connections.

Complaints received by the Board suggest that in seeking to manage the costs to the distributor, distributors have applied various inconsistent measures regarding liability for unpaid electricity charges.

The Code, which sets the minimum conditions that a distributor must meet in carrying out its obligations to distribute electricity, has been interpreted inconsistently on the issue of the liability of the customer. The result is that property owners and managers have been held liable for tenants' arrears, even in situations where it was the tenant who expressly contracted for service with the distributor. The proposed amendments to the Code seek to clarify that it is the customer of the distributor who is liable, and that the customer is the person who contracted for service. The customer may be an owner-occupier, a property owner or manager or a tenant. Prudent management of non-

payment risk by distributors is achieved through the use of security deposits and the right of the distributor to disconnect.

Two new proposed amendments attribute reasonable costs associated with disconnection to the customer and reasonable costs associated with reconnection to the property owner or manager.

Enforcement of Security Deposit Policies

In a letter to all licensed distributors, dated August 14, 2002, the Board identified ambiguities regarding the issue of whether a distributor is permitted to disconnect a customer for non-payment of a security deposit. In February 2004 the Board issued amendments to the Code which standardized the rules governing security deposits. Re-assigning arrears to a third party is not appropriate. The Board, in developing the proposed amendments, is of the view that security deposits are an appropriate tool for distributors to mitigate the risk of customer non-payment.

Consistent with the standardized, Board-approved security deposit policies, these proposed amendments to the Code will allow distributors to consider non-payment of a security deposit as a reason to refuse to connect, or continue to connect a customer.

Mechanism to Track Unpaid Charges

Distributors have indicated to the Board that their policy of holding third parties liable for a tenant's unpaid electricity charges is a temporary measure until such time as they are permitted to establish a deferral account, or other mechanism, to record and recover these debts. At present, LDCs cannot recover more than is currently included in approved rates, so any additional amounts written off are charged to income. Distributors point to natural gas utilities who are permitted to forecast unpaid gas charges and apply for recovery through rate applications. A preliminary review of the policies of natural gas utilities suggests that the transfer of unpaid charges to a third party is not the practice in this sector.

COSTS AND BENEFITS

The proposed amendments will bring consistency to the treatment of unpaid electricity charges and security deposits, and clarify a distributor's right to recover costs for damage to distribution assets.

Benefits to Distributor and Ratepayer

Non-payment of accounts, unauthorized energy use and equipment damage cost distributors and potentially all ratepayers. The Board encourages distributors to identify and prevent any unauthorized use of electricity. Effective use of security deposit policies, load limiters and disconnection, where necessary, are appropriate tools for minimizing bad debt, and to the extent that the security deposit covers the debt, ratepayers are not burdened with these costs. By clarifying that distributors may disconnect for non-payment of a security deposit, distributors will be able to more effectively use security deposits to reduce the impact of bad debts.

Benefits to Property Owners, Property Managers and Tenants

Clarifying that it is the customer of the distributor that is liable for unpaid electricity charges will ensure that third parties are not burdened with the debts of the customer. It will also ensure, for example, that property owners and new tenants are not denied connection due to debts owing by a previous account holder tenant. There are also potential savings in time and money resulting from a reduced need for dispute resolution and legal intervention to settle the issue of liability for unpaid charges.

Costs to Distributors

The proposed amendments mean that distributors will not be able to automatically re-assign account arrears, and that there is therefore a potential to lose revenue. However, the amendments should provide distributors with increased power to protect their interests through the use of security deposits and disconnection for non-payment.

ISSUES FOR CONSIDERATION

As part of this proceeding, the Board will consider many broad legal, social, economic and policy issues. In particular, parties are invited to provide comment on the following issues.

Liability for Costs Associated with Disconnection and Reconnection

The proposed amendments attempt to clarify liability for costs associated with disconnection and reconnection. This issue can be especially problematic in cases of rental properties where the property owner or manager may not be the customer of the distributor, or there has been unauthorized use of electricity or equipment damage resulting from grow house operations. Some questions may include:

- Is it appropriate that the Code be amended such that it is the customer of the distributor who is liable for non-payment, not the property owner or manager?
- What are the types of costs associated with disconnection?

- Which of these costs can be reasonably recovered from the customer?
- What are the types of costs associated with reconnection?
- Which of these costs can be reasonably recovered from the property owner or manager where a previous customer was not the property owner or manager?
- What lessons can be learned from the gas utilities?

Enforcement Methods for Non-payment of Security Deposits

The proposed amendments include provisions to allow distributors to refuse to connect or continue to connect a customer for non-payment of a security deposit. Some issues associated with this issue include:

- Will this method of enforcement adequately strengthen security deposit policies as a tool to effectively manage customer non-payment risk?
- How will this provision affect customers, in particular, low-income electricity customers?
- What options exist to protect low income consumers?
- What lessons can be learned from the gas utilities?

Mechanism to Track Actual Arrears

As part of the proceeding, the Board will review possible mechanisms whereby distributors can track debts arising from unpaid electricity charges, and methods to allow distributors to record and potentially recover lost revenue. This issue will not be reviewed in depth in this proceeding, but some issues to be discussed include:

- What alternatives should be considered to allow distributors to mitigate the risk of customer non-payment?
- What is the estimated value of unpaid arrears as a percentage of total revenues?
- What is the estimated value of stolen electricity as a percentage of total revenues?
- What lessons can be learned from the gas utilities?

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