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February 9, 2017

BY E-MAIL AND WEB POSTING

To: All Licensed Electricity Distributors
All Licensed Electricity Retailers
All Licensed Unit Sub-Meter Providers
All Other Interested Parties

Re: Implementation of the Ontario Rebate for Electricity Consumers

The Ontario Rebate for Electricity Consumers Act, 2016 (OREC Act) establishes a framework under which consumers with eligible accounts are entitled to receive financial assistance in the form of an 8% rebate – or OREC rebate – off of the pre-tax cost of their electricity.

Rules pertaining to the implementation of the OREC rebate are set out in Ontario Regulation 363/16 (General) (OREC General Regulation) and Ontario Regulation 364/16 (Invoicing Requirements) (OREC Invoicing Regulation) (together, OREC Regulations) made under the OREC Act. The OREC Act and the OREC Regulations came into force on January 1, 2017, and are “enforceable provisions” within the meaning of the Ontario Energy Board Act, 1998 (OEB Act).

Among other things, the OREC General Regulation contemplates that the Ontario Energy Board (OEB) will establish the date(s) by which certain OREC-related settlement transactions are to take place, and may approve and provide direction in relation to the establishment and maintenance of OREC-related variance accounts by rate-regulated licensed distributors.

This letter sets out direction that has been established by the OEB regarding those two issues. It also:

- i. Identifies new reporting requirements that the OEB has established for licensed distributors, licensed unit sub-meter providers and licensed retailers that use retailer-consolidated billing relating to the timing of their implementation of the OREC rebate; and
- ii. provides guidance in relation to a number of issues relating to the application of the OREC.

The regime established under the OREC Act and the OREC Regulations is similar in many respects, but not entirely identical to, the regime that applied to the Ontario Clean Energy Benefit. This letter also highlights key differences between the two regimes.

A. Dates for Payments by Licensed Distributors

Under the settlement regime established by the OREC General Regulation, the funds necessary to provide reimbursement in relation to financial assistance provided to consumers by licensed distributors (including host distributors and wholly-embedded distributors) and licensed retailers (whether using distributor-consolidated billing or retailer-consolidated billing) flow from the Minister of Finance to the Independent Electricity System Operator (IESO), and then to licensed distributors that are market participants. These “upstream” payments are described in sections 10(3)(a) and 10(3)(b) of the OREC General Regulation, and are made at the times identified for that purpose in those sections.

Licensed distributors are, in turn, required to make payments for the purposes of reimbursing other parties in relation to the financial assistance that these other parties provide to consumers that are entitled to receive the OREC rebate. These payments are described in sections 10(3)(c) and 10(3)(d) of the OREC General Regulation, and are:

- i. payments by host distributors to each of their wholly-embedded distributors in respect of financial assistance provided to consumers by (i) the wholly-embedded distributor; and (ii) licensed retailers who use retailer-consolidated billing in respect of consumers in the wholly-embedded distributor’s service area; and
- ii. payments by licensed distributors to each licensed retailer who uses retailer-consolidated billing in respect of financial assistance provided by the licensed retailer to consumers in the licensed distributor’s service area.

These “downstream” payments are to be made before the date specified for that purpose by the OEB.

The IESO has provided guidance on the settlement process for reimbursing licensed distributors that are market participants and unit sub-meter providers for financial assistance that they provide under the OREC Act. The relevant documents are available at [Interim Market Document Changes – Ontario Rebate for Electricity Consumers](#).

As per this guidance, licensed distributors will provide the required information to the IESO by the 4th business day of a month, and the amount of the reimbursement will be reflected on the invoice issued to the licensed distributor by the IESO on the 10th business day of the month. The upstream portion of the settlement regime will therefore be completed by the 10th business day of each month. As such, licensed distributors that are market participants would as of that day be in a position to provide the reimbursement referred to in sections 10(3)(c) and 10(3)(d) of the OREC General Regulation to wholly-embedded distributors and licensed retailers that use retailer-consolidated billing. Licensed distributors that are not market participants would in turn be in a position to provide the reimbursement referred to in section 10(3)(d) of the OREC General Regulation a day or two later.

The OEB has therefore set the following dates for downstream reimbursement payments, commencing in January 2017:

- i. the 13th business day of each month as the date before which the payments referred to in section 10(3)(c) must be made by host distributors to their wholly-embedded distributors;
- ii. the 13th business day of each month as the date before which the payments referred to in section 10(3)(c) must be made by licensed distributors that are market participants to licensed retailers that use retailer-consolidated billing; and
- iii. the 15th business day of each month as the date before which the payments referred to in section 10(3)(d) must be made by licensed distributors that are not market participants to licensed retailers that use retailer-consolidated billing.

These downstream payments must be made before the applicable date specified above, and not on those dates.

As permitted by sections 10(7) and 10(8) of the OREC General Regulation, these payments may be made by way of set-off in the accounts maintained by the party responsible for making the reimbursement payments.

Licensed distributors and licensed retailers must ensure that they have the necessary processes in place to allow for the timely flow of the information required to support the settlement regime described in the OREC Generation Regulation, including the timing of payments referred to above.

B. Accounting Treatment

Under the OREC General Regulation, licensed distributors may use estimates for the purposes of obtaining reimbursement for the financial assistance that they are required to provide to consumers. It is expected that licensed distributors will avail themselves of this flexibility as appropriate, and will do so using reasonable estimates. Where estimates are used, the licensed distributor must include an adjustment for the difference between the estimate and the actual amount of financial assistance as soon as possible after the actual amount becomes known. Distributors must perform monthly reconciliations between the amount of the OREC rebate provided to consumers and the amounts claimed from the IESO.

Licensed distributors are expected to follow accrual accounting in respect of financial assistance under the OREC Act. They will in any event need to establish internal payable and receivable accounts to record and track that financial assistance.

Under the OREC Act, each licensed distributor is expected to adapt its invoices as required to provide financial assistance (in the form of a credit on the consumer's invoice) by the time the distributor issues its first invoice in 2017 in respect of an eligible account. A licensed distributor that is not able to do so by that time must do so as soon as possible thereafter and in any event no later than July 1, 2017. A delay in the adaptation of invoices is permitted only for technical or operational reasons. A consumer's entitlement to financial assistance arises for all consumption as of January 1, 2017, and this entitlement is not affected by any delay in the issuance of compliant invoices.

Section 13 of the OREC General Regulation permits rate-regulated licensed distributors to establish and maintain such variance accounts as may be necessary or desirable for the purposes of the OREC Act and the OREC Regulations, with the approval of and subject to any direction from the OEB.

Under the OREC rebate settlement regime, each month a distributor can obtain reimbursement from the IESO or a host distributor, as applicable, in relation to financial assistance to which consumers were entitled in the previous month, as well as in relation to any adjustments to be made in respect of earlier months. This generally eliminates the need for a variance account. By way of exception, however, for licensed distributors who cannot adapt their invoices as of January 1, 2017 and who may have concerns regarding the tracking of financial assistance using their internal accounts, the OEB has established the deferral account described below for OREC rebate purposes. From January 1, 2017 until the date on which compliant invoices are first issued, but no later than July 1, 2017, such licensed distributors may capture the difference between the amount of reimbursement claimed and the financial assistance credited to eligible accounts in a new sub-account of Account 1508, Other Regulatory Assets; namely, "Sub-account OREC Rebate Deferral Account – Ontario Rebate for Electricity Consumers Act". Carrying charges will not apply to this account.

Once a licensed distributor has commenced to issue invoices that have been adapted to comply with the OREC Act and the OREC Regulations, and no later than July 1, 2017, no further amounts are expected to be recorded in this account. The licensed distributor is expected to credit customer invoices and settle the remaining balance with the IESO thereby clearing the balance to zero on the date on which the compliant invoices are first issued. This account will be closed no later than July 1, 2017.

The OEB has not been advised that system costs associated with implementation of the OREC Act will be material for licensed distributors. It is therefore anticipated that each distributor should be able to accommodate any such costs within its overall existing OM&A and/or capital budget. Should a distributor believe that its OREC rebate implementation costs are material, it may request the establishment of a new deferral account and must be able to demonstrate that the new account meets the eligibility criteria for establishing new deferral and variance accounts (causation, materiality, prudence). The deferral account, if approved, would be subject to a prudence review at the distributor's next cost based application.

C. New Reporting Requirements

To enable the OEB to monitor the implementation of the OREC rebate, the OEB has established reporting requirements for licensed distributors, licensed unit sub-meter providers and licensed retailers that use retailer-consolidated billing (together, the licensed financial assistance providers) in relation to the timing of the adaptation of their invoices for purposes of the OREC Act. Each licensed financial assistance provider must comply with the following reporting requirements under the condition of its licence that requires it to provide information to the OEB as the OEB may require.

Each licensed financial assistance provider must file a letter with the OEB, no later than February 28, 2017, that provides the following information:

- i. if the licensed financial assistance provider has already commenced to issue invoices that have been adapted to comply with the OREC Act and the OREC Regulations, the date on which compliant invoices were first issued; or
- ii. if the licensed financial assistance provider has not commenced to issue invoices that have been adapted to comply with the OREC Act and the OREC Regulations, the date on which the licensed financial assistance provider expects to commence issuing compliant invoices.

A licensed financial assistance provider referred to in paragraph (ii) above must also file a further letter with the OEB:

- i. where applicable, promptly upon becoming aware that the implementation date referred to in its initial filing may be delayed, indicating the reasons for and anticipated length of the delay; and
- ii. within two business days of the date on which it commences to issue compliant invoices.

All filings required to be made in accordance with the above reporting requirements should be in searchable/unrestricted Adobe Acrobat (PDF) format and should be sent to orecstatus@ontarioenergyboard.ca. The subject line of the e-mail should state: "OREC Implementation: Licensee Name".

D. Guidance Regarding Application of the OREC Rebate

1. Consumers with Eligible Accounts

The OREC rebate is required to be provided to consumers with "eligible accounts", as defined in section 1(1) of the OREC Act. In most respects, eligibility for the OREC rebate is the same as eligibility for: (i) the Ontario Clean Energy Benefit; and (ii) the OEB's Regulated Price Plan (RPP), as set out in Ontario Regulation 95/05 (Classes of Consumers and Determination of Rates) made under the OEB Act. A consumer that meets the criteria for eligibility for the RPP is entitled to financial assistance under the OREC Act even if (i) the consumer's licensed distributor is exempt from rate regulation or (ii) the consumer has switched the account to an electricity retailer or to wholesale market pricing.

Certain of the eligibility criteria relate to the consumer's annual consumption (demand of 50 kW or less or consumption of 250,000 kWh or less). In the case of a new customer for which the distributor has no consumption history, the OEB expects the distributor to initially determine the customer's eligibility status before the first invoice is issued to the customer, and to do so based on the best information available to it at the time and reasonable estimates of the customer's annual demand or consumption. This is similar to the process that a distributor should normally use to determine whether a new customer is eligible for the RPP or to assign the customer to the appropriate rate class.

One of the differences between the Ontario Clean Energy Benefit and the RPP, on the one hand, and the OREC rebate, on the other, relates to the eligibility of residential complexes. Specifically, under the OREC Act the eligibility of a residential complex within the meaning of section 2(1) of the Residential Tenancies Act, 2006 (RTA) is to be determined "without regard to section 5" of the RTA. Section 5 of the RTA lists a series of properties that are exempt from the RTA, and that have accordingly been considered to be ineligible for the RPP and the Ontario Clean Energy Benefit under the eligibility criteria as drafted for those two purposes. A property listed in section 5 of the RTA can therefore be eligible for the OREC rebate provided that it otherwise falls within the definition of a "residential complex" in section 2(1) of the RTA. This determination will likely often depend on whether the section 5 property includes a rental unit (paragraph (a) of the definition of "residential complex") or is a rented residential site (paragraph (c) of the definition of "residential complex").

2. "Base Invoice Amount" for Distributor and Retailer Invoices

In the case of invoices issued by licensed distributors or licensed retailers, the financial assistance to be provided to a consumer with an eligible account is an amount equal to 8% of the "base invoice amount" for a billing period. The elements that comprise the "base invoice amount" are listed in section 2(1) of the OREC Act, and the elements that are excluded from the "base invoice amount" are listed in section 2(2) of that Act. By way of exception, special rules pertaining to the composition of the "base invoice amount" for licensed distributors that are not rate-regulated by the OEB are set out in the OREC General Regulation. In all events, and unlike the Ontario Clean Energy Benefit, the base invoice amount for purposes of the OREC rebate excludes HST.

While the elements of the "base invoice amount" are in most respects self-explanatory, the following guidance is provided in relation to the component identified as the "commodity price of the electricity":

- i. The “commodity price of the electricity” includes the final RPP variance settlement amount, whether it is a debit or a credit. Where the final RPP variance settlement amount is a credit to the consumer, this amount shall be included in the base invoice amount as a credit.
- ii. As set out in the OREC General Regulation, the amount of rate assistance provided under the Ontario Electricity Support Program (OESP) during the billing period shall be included in the base invoice amount as a credit.
- iii. In the case of a consumer who is engaging in net-metering activities, as defined under Ontario Regulation 541/05 (Net Metering) made under the OEB Act, the total monetary value of eligible electricity returned to the distribution system during the billing period shall be included in the base invoice amount as a credit (in other words, the OREC rebate is to be applied to the consumer’s net load in a billing period).
- iv. In the case of a consumer that has a contract with a retailer for an eligible account, the “commodity price of the electricity” should be understood as the contract price. For this purpose, and subject to any exclusions set out in section 2(2) of the OREC Act, the contract price is all amounts payable by the consumer under a contract with respect to the supply or delivery of electricity other than interest, penalties and cancellation charges or fees, and that that may be settled under the Retail Settlement Code. To be clear, the contract price is the price identified in the contract and billed to the consumer on account of the commodity, and is not the difference between that price and the wholesale market price.

In accordance with the OREC General Regulation, licensed retailers and licensed distributors may rely on information provided to one another in determining if a person is entitled to financial assistance and the amount of that financial assistance.

3. Licensed Unit Sub-Meter Providers

Licensed unit sub-meter providers must satisfy two distinct obligations in relation to the OREC rebate. The first is to flow through financial assistance that is provided to the “master consumer”, as defined in the Unit Sub-Metering Code, to the end-use consumer in a unit of a multi-unit complex (the “consumer” as defined in the Unit Sub-Metering Code). This obligation is set out in section 3(7) of the OREC Act and section 3 of the OREC General Regulation, and is also reflected in section 4.0.1(1.1) of Ontario Regulation 161/99 (Definitions and Exemptions) made under the OEB Act. The

obligation to flow financial assistance through to the end-use consumer is also required in order for an exempt distributor to maintain its exempt status under section 4.1 of Ontario Regulation 161/99.

Where the end-use consumer is receiving rate assistance under the OESP, the consumer's OREC rebate amount is to be reduced by 8% of the OESP amount received in the billing period. Unit sub-meter providers must maintain an account that essentially records the dollar value of this 8% reduction, and must pay the amount recorded in the account to the Minister of Finance annually before January 15, starting in 2018.

The second obligation is to provide financial assistance to the end-use consumer equal to 8% of the sum of the unit sub-metering "fees and charges" billed to the consumer. This obligation is set out in section 4 of the OREC General Regulation. The "fees and charges" to which this financial assistance applies are those for "unit sub-metering", which by definition comprises only the following activities: (a) providing and maintaining unit sub-meters in a multi-unit complex, including billing and collecting payment in respect of the electricity consumed in the multi-unit complex and other associated and ancillary activities; and (b) any other activities required to be carried out by a unit sub-meter provider under Part III of the Energy Consumer Protection Act, 2010.

4. Invoicing Requirements

The OREC Act and the OREC Invoicing Regulation outline specific requirements relating to OREC rebate information that must appear on or with invoices issued by licensed financial assistance providers.

Like the Ontario Clean Energy Benefit, the OREC rebate (labelled as "8% Provincial Rebate") must appear as a separate line item on consumer invoices. The OREC Invoicing Regulation specifies where and how the line item is to appear on the invoice. The invoice must also include a prescribed OREC rebate statement in the location where conservation or other utility messages are usually placed. These are enduring requirements.

In addition, there are time-limited requirements applicable where invoices are provided in paper form. Specifically, certain prescribed statements must appear on the face of the envelope, and a bill insert that meets the prescribed requirements must accompany the invoice. The "on envelope" requirement applies for roughly one year, from the first invoice issued on or after July 1, 2017 to the first invoice issued on or after July 1, 2018. The bill insert requirement applies in respect of the first two invoices that show the OREC rebate.

Under the OREC Invoicing Regulation, the Minister of Energy may authorize a financial assistance provider to use alternative wording or follow a different invoicing process than what is otherwise required by the OREC Invoicing Regulation.

Any licensed financial assistance provider who receives such Ministerial authorization must report this to the OEB as soon as possible after notice of the authorization is received.

5. Limitation Periods For OERC Rebate Payments and Reimbursement

The OREC Act and OREC Generation Regulation establish limitation periods for the OREC rebate. Specifically:

- (i) no rebate is payable to a consumer after more than 24 months from the date of the invoice in which the rebate was not provided; and
- (ii) no reimbursement is payable to a licensed financial assistance provider more than 6 months from the earliest date when licensee could have submitted a claim for reimbursement of a rebate amount that they provided.

6. General Record-Keeping

Licensed distributors, licensed retailers and licensed unit sub-meter providers are reminded that, under section 8 of the OREC Act, they are required to keep at a location in Ontario such records as are necessary to determine and verify compliance with that Act and the OREC Regulations, in addition to any records required to be kept under the OREC Regulations.

Any inquiries relating to this letter should be directed to the OEB's Industry Relations Enquiry e-mail at Industry.Relations@ontarioenergyboard.ca

Yours truly,

Original Signed By

Brian Hewson
Vice President
Consumer Protection & Industry Performance