

**Attachment A
to
Notice of Proposal to Amend Codes**

March 10, 2009

EB-2007-0722

**Proposed Amendments to the Distribution System Code, the Retail Settlement
Code and the Standard Supply Service Code:
Customer Service**

Note: The text of the proposed amendments is set out in italics below, for ease of identification only.

Part I: Proposed Amendments to the Distribution System Code

1. Section 1.2 of the Distribution System Code is amended by adding the following immediately after the definition of "Electrical Safety Authority":

"eligible low income electricity customer" means a residential customer who qualifies for financial, payment management, debt payment or other similar assistance and whose qualification for such assistance by reason of need based on his or her income has been confirmed to the customer's distributor by a social service agency recognized by the Board for this purpose;

2. Section 1.7 of the Distribution System Code is amended by adding the following immediately after the last paragraph of that section:

The following amendments to this Code made by the Board on [insert date], come into force on the day that is 180 days after the date on which they are published on the Board's website after having been made by the Board:

- i. the amendments to sections 1.2, 2.4.11, 2.4.17, 2.4.18, 4.2.2, 4.2.3 and 6.1.2; and*
- ii. the addition of sections 2.4.20A, 2.4.22A, 2.4.23A, 2.4.25A, 2.4.26A, 2.4.26B, 2.5, 2.6, 2.7, 4.2.2A to 4.2.2E, 4.2.3A, 4.2.3B and 7.10.*

3. Section 2.4.11 of the Distribution System Code is amended as follows:
 - i. by adding the following immediately before the current paragraph (a):
 - (a) *the customer is an eligible low income electricity customer that is receiving assistance from an energy bill payment assistance program, being a program recognized by the Board for this purpose that provides funding on an emergency basis to enable a residential consumer to pay his or her energy bills;*and
 - ii. by renumbering the current paragraphs (a) and (b) as paragraphs (b) and (c), respectively.
4. Section 2.4.17 of the Distribution System Code is amended by adding the following immediately after the phrase "Where a customer" in the first line:

, other than an eligible low income electricity customer,
5. Section 2.4.18 of the Distribution System Code is deleted and replaced with the following:

"A distributor shall accept a security deposit from a residential customer in any of the following forms:

 - (a) *cash;*
 - (b) *cheque;*
 - (c) *a guarantee provided by a third party that is acceptable to the distributor, based solely on a reasonable assessment of the third party's ability to make payment under the guarantee; or*
 - (d) *such other form as is acceptable to the distributor.*
6. Section 2.4 of the Distribution System Code is amended by adding the following immediately after section 2.4.20:

2.4.20A Despite section 2.4.20, a distributor shall permit an eligible low income electricity customer to provide a security deposit in equal instalments paid over a period of at least 12 months, including where a new security deposit is required due to the distributor having applied the existing security deposit against amounts owing under section 2.4.26A.

7. Section 2.4 of the Distribution System Code is amended by adding the following immediately after section 2.4.22:

2.4.22A For the purposes of section 2.4.22, where a residential customer has paid a security deposit in instalments, a distributor shall conduct a review of the customer's security deposit in the calendar year in which the anniversary of the first instalment occurs and thereafter as otherwise required by this Code.

8. Section 2.4 of the Distribution System Code is amended by adding the following immediately after section 2.4.23:

2.4.23A For the purposes of section 2.4.23, where a residential customer has paid a security deposit in instalments, the customer shall not be entitled to request a review of the security deposit until one calendar year has elapsed from the date of payment of the final instalment.

9. Section 2.4 of the Distribution System Code is amended by adding the following immediately after section 2.4.25:

2.4.25A Despite section 2.4.25:

- (a) where a residential customer has paid a security deposit in instalments and is entitled to the return of all or part of the security deposit, a distributor shall return the amount in equal instalments paid over the same number of months as the security deposit was paid by the customer; and*
- (b) where an eligible low income electricity customer is required to adjust the security deposit upwards, a distributor shall permit the customer to pay the adjustment amount in equal instalments paid over a period of at least 12 months.*

10. Section 2.4 of the Distribution System Code is amended by adding the following immediately after section 2.4.26:

2.4.26A A distributor shall not issue a disconnection notice to a residential customer for non-payment unless the distributor has first applied any security deposit held on account for the customer against any amounts owing at that time and the security deposit was insufficient to cover the total amount owing.

2.4.26B Where a distributor applies all or part of a security deposit to offset amounts owing by residential customer under section 2.4.26A, the distributor may request that the customer repay the amount of the security deposit that was so applied. Where the customer is an

eligible low income electricity customer, the distributor shall permit the customer to repay the security deposit in equal instalments paid over a period of at least 12 months.

11. Section 2 of the Distribution System Code is amended by adding the following immediately after section 2.4.36:¹

2.5 Bill Payment

2.5.1 *A distributor shall include on each bill issued to a customer the date on which the bill is printed by the distributor.*

2.5.2 *Except as otherwise permitted by this Code, a distributor shall not treat a bill issued to a customer as unpaid, and shall not impose any late payment or other charges associated with non-payment, until the applicable minimum payment period set out in section 2.5.3 has elapsed.*

2.5.3 *For the purposes of section 2.5.2, the minimum payment period shall be:*

- (a) *21 days from the date on which the bill was issued to the customer, in the case of an eligible low income electricity customer; and*
- (b) *16 days from the date on which the bill was issued to the customer, in all other cases.*

A distributor may provide for longer minimum payment periods, provided that any such longer minimum payment periods are documented in the distributor's Conditions of Service.

2.5.4 *For the purposes of section 2.5.3, a bill will be deemed to have been issued to a customer:*

- (a) *if sent by mail, on the third day after the date on which the bill was printed by the distributor;*
- (b) *if made available over the internet, on the date on which an e-mail is sent to the customer notifying the customer that the bill is available for viewing over the internet;*
- (c) *if sent by e-mail, on the date on which the e-mail is sent; or*
- (d) *if sent by more than one of the methods listed in paragraphs (a) to (c), on whichever date of deemed issuance occurs last.*

¹ Sections 2.4.32 to 2.4.36 are proposed to be added as part of this notice and comment process. See Attachment C.

- 2.5.5 *A distributor shall apply the following rules for purposes of determining the date on which payment of a bill has been received from a customer:*
- (a) *if paid by mail, on the date that the envelope is post-marked or the date of the cheque provided by the customer, whichever is the later; or*
 - (b) *if paid at a financial institution or electronically, on the date on which the payment is acknowledged or recorded by the customer's financial institution.*
- 2.5.6 *Where a distributor has issued a disconnection notice to a residential customer for non-payment, the distributor shall permit the customer to pay all amounts that are then overdue for payment by credit card issued by a financial institution.*
- 2.5.7 *Where a bill issued to a residential customer includes charges for goods or services other than electricity charges, a distributor shall allocate any payment made by the customer first to the electricity charges and then, if funds are remaining, to the charges for other goods or services. For the purposes of this section, "electricity charges" are:*
- (a) *charges that appear under the sub-headings "Electricity", "Delivery", "Regulatory Charges" and "Debt Retirement Charge" as described in Ontario Regulation 275/04 (Information on Invoices to Low-volume Consumers of Electricity) made under the Act, and all applicable taxes on those charges;*
 - (b) *where applicable, charges labeled "Provincial Benefit" as described in Ontario Regulation 429/04 (Adjustments Under Section 25.33 of the Act) made under the Electricity Act and all applicable taxes on those charges; and*
 - (c) *such other charges and applicable taxes associated with the consumption of electricity as may be required by law to be included on the bill issued to the customer or as may be designated by the Board for the purposes of this section.*
- 2.5.8 *For the purposes of this section 2.5, a distributor shall apply the following rules relating to the computation of time:*
- (a) *where there is reference to a number of days between two events, the days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens;*

- (b) *where the time for doing an act expires on a day that is not a business day, the act may be done on the next day that is a business day;*
- (c) *where an act, other than payment by a customer, occurs on a day that is not a business day, it shall be deemed to have occurred on the next business day; and*
- (d) *where an act, other than payment by a customer, occurs after 5:00 pm, it shall be deemed to have occurred on the next business day.*

For the purposes of this section, a “business day” is any day other than a Saturday or a holiday as defined in section 88 of the Legislation Act, 2006.

2.6 Management of Customer Arrears

- 2.6.1 *A distributor shall make an arrears management program available to eligible low income electricity customers. The arrears management program shall include, at a minimum, an opportunity for the eligible low income electricity customer to enter into an arrears payment agreement with the distributor.*
- 2.6.2 *The arrears payment agreement referred to in section 2.6.1 shall allow the eligible low income electricity customer to pay all amounts that are then overdue for payment, including any late payment and other charges associated with non-payment that have accrued to the date of the agreement, over the following periods:*
 - (a) *a period of at least 150 days, where the amount overdue for payment is less than twice the customer’s average monthly billing amount; or*
 - (b) *a period of at least 300 days, where the amount overdue for payment is equal to or exceeds twice the customer’s average monthly billing amount.*
- 2.6.3 *For the purposes of section 2.6.2, the customer’s average monthly billing amount shall be calculated by taking the aggregate of the total electricity charges billed to the customer in the preceding 12 months and dividing that value by 12. If the customer has been a customer of the distributor for less than 12 months, the customer’s average monthly billing amount shall be based on a reasonable estimate made by the distributor. For the purposes of this section, “electricity charges” has the same meaning as in section 2.5.7.*
- 2.6.4 *A distributor shall not impose any late payment or other charges associated with non-payment in respect of any amount that is, at the*

relevant time, the subject of an arrears payment agreement that is in effect with an eligible low income electricity customer except to the extent that the customer has failed to make a payment in accordance with the terms of the agreement.

2.7 Management of Customer Accounts

2.7.1 Where a distributor opens an account for a property in the name of a person at the request of a third party, the distributor shall within 15 days of the opening of the account send a letter to the person advising of the opening of the account.

2.7.2 Despite any other provision of this Code, where a distributor has opened an account for a property in the name of a person at the request of a third party, the distributor shall not seek to recover from that person any charges for service provided to the property unless the person has agreed in writing to being the customer of the distributor in relation to the property.

2.7.3 Despite any other provision of this Code, where a distributor closes an account in relation to a rental unit in a residential complex as defined in the Residential Tenancies Act, 2006 or another residential property, the distributor shall not seek to recover any charges for service provided to that rental unit or residential property after closure of the account from any person, including the landlord for the residential complex or a new owner of the residential property, unless the person has agreed in writing to assume responsibility for those charges.

12. Section 4.2.2 of the Distribution System Code is deleted and replaced with the following:

4.2.2 A distributor that intends to disconnect the property of a residential customer for non-payment shall send or deliver a disconnection notice to the customer that contains, at a minimum, the following information:

- (a) the amount that is then overdue for payment, including all applicable late payment and other charges associated with non-payment;*
- (b) the earliest and latest dates on which disconnection may occur;*
- (c) the amount of any reconnection charge that may apply if disconnection occurs including, where more than one reconnection charge has been approved by the Board, the circumstances in which each charge is payable;*

- (d) *any action that the customer may take to avoid disconnection and the deadline for taking such action;*
- (e) *that an arrears management program may be available to the customer, and a description of the arrears management programs offered by the distributor;*
- (f) *telephone numbers, addresses and other available contact information for all local social service agencies and local energy assistance charities;*
- (g) *a description of the process for qualifying for assistance that is available to low income electricity customers;*
- (h) *whether a local Vital Services By-law is in effect that applies to the customer's property and, if so, whether the distributor has provided the required notification to the municipality;*
- (i) *the telephone numbers, addresses and other available contact information to use to contact the distributor for more information about bill payment, disconnection and the distributor's arrears management programs; and*
- (j) *the date on which the disconnection notice was printed by the distributor.*

4.2.2AA distributor that sends or delivers a disconnection notice to a customer for non-payment shall not include that notice in the same envelope as a bill or any other documentation emanating with the distributor.

4.2.2BA distributor shall, at the request of a residential customer, send a copy of any disconnection notice issued to the customer for non-payment to a third party designated by the customer for that purpose provided that the request is made no later than the last day of the applicable minimum notice period set out in section 4.2.3. In such a case:

- (a) *the distributor shall also notify the third party that the third party is not, unless otherwise agreed with the distributor, responsible for the payment of any charges for the provision of electricity service in relation to the customer's property;*
- (b) *the distributor shall not disconnect the property of the customer until such time as the third party has received the disconnection notice; and*

- (c) *the rules set out in sections 2.5.4 and 2.5.8 shall apply, with such modifications as the context may require, for the purposes of determining the date of receipt of the disconnection notice by the third party.*

4.2.2CA disconnection notice issued for non-payment shall expire on the date that is 11 days from the last day of the applicable minimum notice period referred to in section 4.2.3, determined in accordance with the rules set out in section 2.5.8. A distributor may not thereafter disconnect the property of the customer for non-payment unless the distributor issues a new disconnection notice in accordance with section 4.2.2.

4.2.2D A distributor shall make reasonable efforts to contact, in person or by telephone, a customer to whom the distributor has issued a disconnection notice for non-payment prior to the earliest date on which disconnection for non-payment may occur as set out in the disconnection notice.

4.2.2E Where a distributor issues a disconnection notice for non-payment in respect of the disconnection of a multi-unit, master-metered building, the distributor shall post a copy of the disconnection notice in a conspicuous place on or in the building promptly after issuance of the notice.

13. Section 4.2.3 of the Distribution System Code is deleted and replaced with the following:

4.2.3 A distributor shall not disconnect a customer for non-payment until the applicable minimum notice period set out in section 4.2.3A has elapsed.

4.2.3A For the purposes of section 4.2.3, the minimum notice period shall be:

- (a) *60 days from the date on which the disconnection notice is received by the customer, in the case of a residential customer that has provided the distributor with documentation from a physician confirming that disconnection poses a risk of significant adverse effects on the physical health of the customer or on the physical health of the customer's spouse or dependent family member who resides with the customer;*
- (b) *21 days from the date on which the disconnection notice is received by the customer, in the case of an eligible low income electricity customer or a residential customer that has requested that the distributor provide a third party with a copy of the disconnection notice as set out in section 4.2.2B; or*
- (c) *10 days from the date on which the disconnection notice is received by the customer, in all other cases.*

4.2.3B For the purposes of section 4.2.3A:

- (a) *where a disconnection notice is sent by mail, the disconnection notice shall be deemed to have been received by the customer on the third day after the date on which the notice was printed by the distributor;*
- (b) *where a disconnection notice is delivered by personal service, the disconnection notice shall be deemed to have been received by the customer on the date of delivery;*
- (c) *where a disconnection notice is delivered by being posted on the customer's property, the disconnection notice shall be deemed to have been received by the customer on the date of such posting;*
- (d) *"spouse" has the meaning given to it in section 29 of the Family Law Act;*
- (e) *"dependent family member" means a "dependent" as defined in section 29 of the Family Law Act and also includes a grandparent who, based on need, is financially dependent on the customer; and*
- (f) *the distributor shall apply the rules relating to the computation of time set out in section 2.5.8.*

14. Section 6.1.2 of the Distribution System Code is amended by adding the following to the end of that section:

Nothing in this section shall be construed as permitting a distributor to recover or to seek to recover charges for service provided to a property from any person other than a person that has agreed in writing to being the customer of the distributor in relation to the property or that has agreed in writing to assume responsibility for those charges.

15. Section 7 of the Distribution System Code is amended by adding the following immediately after section 7.9.4:

7.10 Reconnection

7.10.1 Where a distributor has disconnected the property of a customer for non-payment, the distributor shall reconnect the property within two business days, as defined in section 2.5.8, of the date on which the customer:

- (a) *makes payment in full of the amount overdue for payment as specified in the disconnection notice; or*

- (b) *enters into an arrears payment agreement with the distributor referred to in section 2.6.1.*

7.10.2 This service quality requirement must be met at least 85 percent of the time on a yearly basis.

Part II: Proposed Amendments to the Retail Settlement Code

1. Section 1.7 of the Retail Settlement Code is amended by adding the following at the end of that section:

Section 7.2.3 and the amendments to section 7.7, made by the Board on [insert date], come into force on the day that is 180 days after the date on which they are published on the Board's website after having been made by the Board.

2. Section 7.2 of the Retail Settlement Code is amended by adding the following immediately after section 7.2.2:

7.2.3 Equal Billing

A distributor that provides distributor-consolidated billing for a residential consumer shall bill the consumer on the basis of an equal billing plan if so requested by the consumer or the retailer. The equal billing plan shall comply with the requirements set out in the Standard Supply Service Code.

If a distributor offers an equal billing plan to a class of non-residential consumers the distributor shall, when providing distributor-consolidated billing for a non-residential consumer within that class, bill the non-residential consumer on the basis of that equal billing plan if so requested by the consumer or retailer.

3. Section 7.7 of the Retail Settlement Code is amended as follows:
- i. by adding the following to the end of the first sentence of the first paragraph:
in accordance with sections 7.7.1 and 7.7.2 where applicable
 - ii. by replacing the word "credit" in the first and second sentences of the first paragraph with the word "repay";
 - iii. by replacing the word "credited" in the third sentence of the first paragraph with the word "repaid";
 - iv. by adding the following to the end of the first sentence of the second paragraph:

in accordance with sections 7.7.3, 7.7.4 and 7.7.6 where applicable

- v. by deleting the second and third sentences of the second paragraph and replacing them with the following:

In the case of a residential consumer who is not responsible for the error, the allowable period of time for which the consumer may be charged is 12 months. In the case of a non-residential consumer who is not responsible for the error, the allowable period of time for which the consumer may be charged is six years. In the case of any consumer who is responsible for the error, whether by way of tampering, willful damage, unauthorized energy use or otherwise, the allowable period of time for which the consumer may be charged is the duration of the error. A distributor may charge interest on under-billed amounts only where the consumer was responsible for the error, whether by way of tampering, willful damage, unauthorized energy use or otherwise. Such interest shall be equal to the prime rate charged by the distributor's bank.

and

- vi. by adding the following immediately after the third paragraph:

7.7.1 Where the amount by which a distributor has over-billed a consumer is equal to or exceeds the consumer's average monthly billing amount, determined in accordance with section 7.7.5, the distributor shall repay the full amount by cheque within 21 days of discovery of the error.

7.7.2 Where the amount by which a distributor has over-billed a consumer is less than the consumer's average monthly billing amount, determined in accordance with section 7.7.5:

(a) in the case of an eligible low income electricity consumer, the distributor shall promptly notify the eligible low income electricity consumer of the over-billed amount, and shall repay the full amount by cheque within 21 days of discovery of the error if the eligible low income electricity consumer so requests; or

(b) in all other cases, the distributor shall repay the full amount by cheque within 21 days of discovery of the error or by credit on the next regularly scheduled bill issued to consumer, as the distributor may elect.

7.7.3 Where a distributor has under-billed a consumer who is not responsible for the error by an amount that is equal to or exceeds

the consumer's average monthly billing amount, determined in accordance with section 7.7.5, the distributor shall allow the consumer to pay the under-billed amount in equal instalments over a period at least equal to the duration of the billing error.

- 7.7.4 *Where a distributor has under-billed a consumer who is not responsible for the error by an amount that is less than the consumer's average monthly billing amount, determined in accordance with section 7.7.5:*
- (a) *in the case of an eligible low income electricity consumer, the distributor shall promptly notify the eligible low income electricity consumer of the under-billed amount and shall allow the eligible low income electricity consumer to pay the under-billed amount in equal instalments over a period at least equal to the duration of the billing error if the eligible low income electricity consumer so requests; or*
 - (b) *in all other cases, the distributor may require payment of the full under-billed amount by means of a corresponding charge on the next regularly scheduled bill issued to the consumer.*
- 7.7.5 *For the purposes of sections 7.7.1 to 7.7.4, a consumer's average monthly billing amount shall be calculated by taking the aggregate of the total electricity charges billed to the consumer in the preceding 12 months and dividing that value by 12. If the consumer has been receiving service from a consumer for less than 12 months, the consumer's average monthly billing amount shall be based on a reasonable estimate made by the distributor. For the purposes of this section, "electricity charges" has the same meaning as in section 2.5.7 of the Distribution System Code.*
- 7.7.6 *For the purposes of sections 7.7.2 and 7.7.4, an "eligible low income electricity consumer" is a residential consumer who qualifies for financial, payment management, debt payment or other similar assistance and whose qualification for such assistance by reason of need based on his or her income has been confirmed to the consumer's distributor by a social service agency recognized by the Board for this purpose.*
- 7.7.7 *Where a distributor has under billed a consumer who is responsible for the error, whether by way of tampering, willful damage, unauthorized energy use or otherwise, the distributor may require payment of the full under-billed amount by means of a corresponding charge on the next regularly scheduled bill issued to the consumer.*

Part III: Proposed Amendments to the Standard Supply Service Code

1. Section 1.6 of the Standard Supply Service Code is amended by adding the following immediately after section 1.6.1:
 - 1.6.2 *The amendments to section 2.6.2 and the addition of section 2.6.2A, made by the Board on [insert date], come into force on the day that is 180 days after the date on which they are published on the Board's website after having been made by the Board.*

2. Section 2.6.2 of the Standard Supply Service Code is deleted and replaced with the following:
 - 2.6.2 *A distributor shall offer an equal billing plan option to all standard supply service customers that fall within the residential class. The equal billing plan option shall meet the following minimum requirements:*
 - (a) *a distributor may only refuse to provide an equal billing plan option to a customer that is in arrears on payment to the distributor for electricity charges, as defined in section 2.5.7 of the Distribution System Code, and that has not entered into an arrears payment agreement with the distributor as referred to in section 2.6.1 of the Distribution System Code;*
 - (b) *despite any other provision of this Code or of any other code issued by the Board, the equal billing plan option offered to an eligible low income electricity customer shall provide for the customer to be billed on a monthly basis and shall make provision for the customer to select either of two dates within the month on which payment under a monthly bill is due;*
 - (c) *subject to paragraph (d), the equal billing plan shall provide for annual reconciliation in the twelfth month of the plan as follows:*
 - i. *subject to paragraph (ii), where the reconciliation demonstrates that funds are owing to the customer, the full amount shall be credited to the customer's account on the bill issued for the twelfth month of the plan;*
 - ii. *for an eligible low income electricity customer, where the reconciliation demonstrates that funds are owing to the customer in an amount that is equal to or exceeds the customer's average monthly billing amount, determined in accordance with section 2.6.2A, the distributor shall promptly notify the customer of the amount owing and shall pay the*

full amount by cheque by the 21st day of the twelfth month if the customer so requests;

- iii. for a customer other than an eligible low income electricity customer, where the reconciliation demonstrates that funds are owing by the customer, the full amount shall be collected by means of a corresponding charge on the bill issued for the twelfth month of the plan; and*
 - iv. for an eligible low income electricity customer, where the reconciliation demonstrates that funds are owing by the customer, the full amount shall be payable by the customer in equal instalments over the first eleven months of the next year of the plan; and*
- (d) where a customer leaves the equal billing plan for any reason, the distributor shall conduct a reconciliation and shall include any funds owing by or to the customer as a charge or credit on the next regularly scheduled bill issued to the customer.*

2.6.2A For the purposes of section 2.6.2:

- (a) an “eligible low income electricity customer” is a residential customer who qualifies for financial, payment management, debt payment or other similar assistance and whose qualification for such assistance by reason of need based on his or her income has been confirmed to the customer’s distributor by a social service agency recognized by the Board for this purpose; and*
- (b) a customer’s annual average monthly billing amount shall be calculated by taking the aggregate of the total electricity charges billed to the customer in the preceding 12 months and dividing that value by 12. If the customer has been a customer of the distributor for less than 12 months, the customer’s average monthly billing amount shall be based on a reasonable estimate made by the distributor. For the purposes of this section, “electricity charges” has the same meaning as in section 2.5.7 of the Distribution System Code.*