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BY EMAIL AND WEB POSTING

December 15, 2011

NOTICE OF PROPOSAL TO AMEND A CODE

PROPOSED AMENDMENTS TO THE UNIT SUB-METERING CODE

BOARD FILE NO.: EB-2011-0429

**To: All Licensed Unit Sub-Meter Providers
All Other Interested Parties**

The Ontario Energy Board (the "Board") is giving notice under section 70.2 of the *Ontario Energy Board Act, 1998* (the "Act") of proposed amendments to the Unit Sub-Metering Code (the "USMC").

The Board will not be granting cost awards in this matter.

A. Background

The purpose of the proposed revisions to the USMC is to implement consumer protection measures for consumers being billed for electricity consumption by unit sub-meter providers.

When the Unit Sub-Metering Code (the "USMC") (previously known as the Smart Sub-Metering Code) was originally introduced, the Board stated that in order to ensure the adequacy, reliability and quality of electricity service to consumers of unit sub-meter providers (then known as smart sub-metering providers), the Board needed to ensure that licensed unit sub-meter providers had appropriate rules in place for them to follow.

To that end, the Board included in the USMC consumer protection measures similar to those provided to consumers of licensed distributors regarding disconnection, security deposits, and consumer complaints.¹

On July 2, 2010, the Board introduced new consumer service provisions (EB-2007-0722) to the Distribution System Code (the "DSC"), the Retail Settlement Code, and the Standard Supply Service Code for licensed electricity distributors (the "July 2010 Amendments"). The July 2010 Amendments introduced standardized consumer service rules that licensed electricity distributors have to comply with (including when acting as unit smart meter providers). For the purposes of this Notice, the terms "licensed distributor" and "unit smart meter provider" will be used interchangeably.

The Board continues to believe that consumers should have similar rights whether they are provided service through unit smart metering by a licensed distributor or through unit sub-metering by a licensed unit sub-meter provider. In order to ensure that unit sub-metered consumers receive similar protections and rights as unit smart metered consumers, and to keep the USMC current with the revised DSC and Retail Settlement Code, the Board is proposing that, where appropriate, the USMC be amended to introduce new consumer service requirements for unit sub-meter providers.

The July 2010 Amendments also included new rules for low-income energy consumers. Given that the emergency financial assistance component of the Board's Low-Income Energy Assistance Program ("LEAP") is also available to eligible low-income consumers of unit sub-metering providers (the funds for these consumers come from the licensed distributor that serves the area where the eligible low-income consumer lives), the Board believes that unit sub-meter providers should also be required to offer specialized rules for eligible low-income consumers.

B. Proposed Amendments to the USMC

Attachment A to this Notice contains the proposed amendments to the USMC. Attachment B to this Notice contains a comparison version of the USMC that includes all of the proposed amendments.

¹ Review the entire consultation on the development of the original Smart Sub-Metering Code at the following link:
[http://www.ontarioenergyboard.ca/OEB/Industry/Regulatory+Proceedings/Policy+Initiatives+and+Consultations/Smart+Metering+Initiative+\(SMI\)/Smart+Metering+-Smart+Sub-Metering+in+Condominiums](http://www.ontarioenergyboard.ca/OEB/Industry/Regulatory+Proceedings/Policy+Initiatives+and+Consultations/Smart+Metering+Initiative+(SMI)/Smart+Metering+-Smart+Sub-Metering+in+Condominiums)

Below is a summary of the proposed amendments to the USMC.

1. Definitions, Interpretations, and Coming into Force

In order to facilitate a number of the proposed amendments outlined in this Notice, the Board is proposing to amend the USMC to add definitions for "eligible low-income consumer", "Emergency Financial Assistance", "load control device", "load limiter device", "Social Service Agency or Government Agency", and "timed load interrupter device".

To support the new provisions proposed to be added to the USMC relating to when an event takes place, the Board is proposing to add sections 1.3.2 and 1.3.3 to the USMC to include rules relating to length of time a person qualifies as an eligible low-income consumer.

The Board is proposing that the amendments set out in this notice will come into force on January 1, 2013 (proposed section 1.5 4).

2. Security Deposits

2.1 Residential

The Board believes that security deposit rules should take into account the impact that paying a deposit may have on the ability of residential consumers to access electricity service while ensuring that effective security deposit policies remain in place for unit sub-meter providers.

The Board is proposing to include a provision that would allow a residential consumer that is being required to provide a security deposit to pay the security deposit in equal installments over period of at least 6 months (section 4.11.1A). This time period will also apply where the security deposit is being increased or is being paid to replace a security deposit that has been applied against arrears (sections 4.1.15A and 4.1.19 respectively).

In the past, consumers have received a disconnection notice for arrears when the distributor is holding some of the consumer's money in the form of a security deposit. In some cases, the amount of deposit would be sufficient to pay off the arrears. Many

consumers believe that allowing a distributor to keep a security deposit, when such money can help pay off arrears, leads to unnecessary disconnections. In order to address those concerns, the Board is proposing that a unit sub-meter provider must apply any existing security deposit against arrears before issuing a disconnection notice to a residential consumer (section 4.1.18).

Other proposed amendments in this area include:

- amending section 4.1.4 to include a reference to proposed section 4.1.18 (losing good payment history);
- amending section 4.1.8 (using highest actual or estimated monthly load to calculate deposit) to state that it does not apply to residential consumers;
- requiring a unit sub-meter provider to review the consumer's security deposit in the calendar year in which the anniversary of the first installment occurs (section 4.1.13A); and
- requiring a unit sub-meter provider to review the consumer's security deposit upon the request of the consumer only after one calendar year has passed from the date of the first installment (section 4.1.14A).

2.2 *Eligible Low-Income Consumers*

Proposed section 4.1.11A of the USMC allows residential consumers to pay a security deposit in equal installments over 6 months. However, the Board believes that the need to pay a deposit, while maintaining current bill payments and possibly an arrears payment agreement, may prove an undue burden for some low-income consumers.

To address this concern, the Board is proposing to allow an eligible low-income consumer to ask for a waiver from paying a security deposit. Proposed section 4.1.5A will require a unit sub-meter provider to notify a residential consumer that the security deposit requirement will be waived for an eligible low-income consumer provided that such a consumer contacts the unit sub-meter provider and confirms his or her status as an eligible low-income consumer.

For further clarification, the proposed amendments also include section 4.1.5C which expressly provides that a unit sub-meter provider shall not collect a security deposit from an eligible low-income consumer who has requested a waiver. If a unit sub-meter provider is notified by a social service agency or government agency that it is

undertaking a low-income eligibility assessment of the consumer, the unit sub-meter provider will extend the due date for paying a security deposit by at least 21 days (proposed section 4.1.5B).

In order to address the possibility that a consumer's status may change over time, the Board is proposing to add section 4.1.14B to the USMC. This section states that a unit sub-meter provider must give notice to all residential consumers, at least annually, that any residential consumer that qualifies as an eligible low-income consumer may request and receive a refund of a security deposit previously paid to the unit sub-meter provider after application of the security deposit to any outstanding arrears.

2.3 *Non-Residential*

The Board believes that a period of one year is sufficient for a residential consumer to demonstrate a good payment history. However, the higher non-payment risk associated with non-residential consumers, most notably due to higher bill amounts, indicates that a longer period should be required for non-residential consumers to demonstrate a good payment history. Therefore, the Board is proposing to amend section 4.1.3 to state that non-residential unit sub-metered consumers must maintain a good payment history for 5 years. The Board is also proposing to amend the USMC (section 4.1.15) to allow unit sub-meter providers to collect any increase in a security deposit from a non-residential consumer on the consumer's next regular bill. The Board is also proposing to add section 4.1.10A to the USMC to allow non-residential consumers to post a security deposit using a letter of credit.

3. **Disconnection for Non-Payment**

Disconnection policies are of great concern for consumers. Section 31 of the *Electricity Act, 1998* allows electricity distributors (either licensed or exempt distributors) to terminate service for non-payment of charges owing for the distribution or retail of electricity. Disconnection for non-payment is conditional on reasonable notice being given by the distributor.

The July 2010 Amendments set out disconnection related requirements for unit smart meter providers which included the form and content of disconnection notices, the timing of disconnection notices, and the involvement of third parties at the consumer's request. The Board believes that consumers served by a unit sub-meter provider

should also receive the benefits of standardized disconnection practices.

3.1 Form and Content of Disconnection Notice

The USMC currently does not specify the form or content of a disconnection notice. The Board is of the view that sufficient information should be provided to residential consumers to assist them in understanding their obligations and options for avoiding disconnection. Therefore, the Board is proposing to add section 4.2.5A to identify the minimum information that must be included in a disconnection notice for residential consumers. Information that must be included in the notice includes, but is not limited to:

- the earliest and latest possible dates for disconnection;
- all applicable charges, and the circumstances in which each is payable;
- the forms of payment that the consumer may use to pay the overdue amount and the time period during which any given form of payment will be accepted;
- that a disconnection may take place whether or not the consumer is at the premises;
- that a Board-prescribed arrears payment program is available to all residential consumers and that other voluntary bill payment or financial assistance may be available if offered by the unit sub-meter provider; and
- reference to rules for eligible low-income consumers and that low-income assistance may be available from social service agencies and government agencies.

Where the disconnection notice is provided by mail, it is important that consumers can clearly identify the disconnection notice and distinguish it from other mailings from the unit sub-meter provider (such as regular bills or marketing materials). It is therefore proposed that a disconnection notice be mailed separately from the electricity bill (section 4.2.5B).

3.2 The Timing and Duration of Disconnection Notice

Section 4.2.6 of the USMC currently recommends that no less than 7 calendar days notice be provided prior to disconnecting a consumer for non-payment. The Board believes a longer notice period is warranted. Therefore, it is proposing to require that 10 calendar days notice be provided as a minimum notice period for disconnection for most consumers or 60 days for consumers that have a physician's note confirming certain

information (section 4.2.6).

The Board is proposing that the disconnection notice is only valid for a period of 11 days from the end of the applicable minimum notice period (i.e., for most residential consumers, after the 10-day notice period ends, the unit-sub-meter provider has 11 days to disconnect the consumer). If disconnection has not occurred by that date, the unit sub-meter provider must issue a new disconnection notice, with an additional notice period, prior to disconnecting (proposed section 4.2.5F). The Board believes that this timing provides an appropriate balance between the needs of unit sub-meter provider in terms of operational flexibility and the needs of consumers in terms of greater certainty regarding the period within which disconnection may occur.

The Board is also proposing that the disconnection notice period commence on the date of receipt of the notice by the consumer. To support that requirement, the Board is proposing to introduce rules related to the computation of time (section 4.2.6A).

3.3 Consumer Contact Prior to Disconnection

The Board believes that one final effort at personal contact may contribute to the success of the collection process and is therefore proposing to amend the USMC (section 4.2.5G) to require a unit sub-meter provider to attempt to make contact with the consumer at least 48 hours prior to the scheduled disconnection date.

3.4 Additional Recipients of Disconnection Notice

As a further effort to ensure that a consumer has ample opportunity to maximize the likelihood of payment, the Board believes that it is appropriate to mandate in the USMC (proposed section 4.2.5C) a requirement that a unit sub-meter provider shall, upon request of the consumer, deliver a copy of a disconnection notice to a third party (including a social service agency or government agency), designated by the consumer for that purpose. Such action can both increase the likelihood of payment being received and lead to a decrease in the number of disconnections and associated costs to the unit sub-meter provider.

If the third party informs the unit sub-meter provider within the 10-day disconnection notice time period that the third party is attempting to arrange assistance for the bill payment, the unit sub-meter provider must suspend any disconnection action for a

period of 21 days (proposed section 4.2.5H).

If the third party either notifies the unit sub-meter provider that the consumer in question is not eligible to receive assistance in paying the bill, the unit sub-meter provider may proceed to disconnect the consumer (proposed section 4.2.5I).

4. Bill Issuance and Payment

4.1 Payment Period

Unit sub-meter providers typically allow consumers a period of time within which to pay a bill without the application of a late payment charge or taking disconnection action.

At the present time, there are no mandatory rules regarding the minimum amount of time that must elapse before a unit sub-metered consumer is subject to late payment charges or disconnection actions. However, the Board is of the view that a mandatory minimum timeframe will benefit consumers and unit sub-meter providers alike by providing both clarity and uniformity of practice.

When developing a similar rule for licensed distributors, the Board determined that a minimum 16 calendar days is a reasonable timeline for the consumer to pay the bill before a late payment charge is applied. The Board believes that the same minimum of 16 calendar days is also appropriate for unit sub-metered consumers. The Board is therefore proposing to amend the USMC accordingly (section 4.5.3).

4.2 Determining When Bills Are Issued and Payment is Received

The Board believes that there is merit in codifying rules relating to when bills are issued and when payments are received. Such standardized rules will help to address consumer concerns while also setting out parameters that are clear and easily understandable by the consumer. This should assist unit sub-meter providers by reducing the number of disputes with the consumer relating to whether a bill has been paid on time or not.

To achieve this goal, the Board is proposing to amend the USMC by adding sections 4.5.4 and 4.5.5.

4.4 Allocation of Payments between Electricity and Non-Electricity Charges

Some unit sub-meter providers may bill for items other than electricity charges. Charging for more than just electricity related services on a consumer's electricity bill can lead to disconnection related issues if the consumer disputes the non-electricity related charges and only submits partial payment.

The Board notes that under section 31 of the *Electricity Act, 1998*, disconnection for non-payment is limited to the failure to pay for the distribution and retail of electricity to a property. As such, the Board does not believe that it is appropriate for consumers to be exposed to the risk of disconnection by reason of partial payments being allocated in whole or in part to non-electricity charges. The Board is therefore proposing to amend the USMC (section 4.5.6) to require unit sub-meter providers to allocate partial payments first to electricity charges.

These proposed amendments will also provide a transition period for those situations where a unit sub-meter provider has already entered into a joint-billing agreement with another party for the billing on non-electricity related services which stipulate that any payments will be allocated on a proportionate basis (section 4.5.7).

Electricity charges will be defined in proposed section 4.5.10.

5. Arrears Management

The Board believes that a well-designed arrears management program can assist consumers in meeting payment obligations. The Board is therefore proposing to amend the USMC to require unit sub-metering providers to offer an arrears management program to its residential consumers (section 4.6).

If a unit sub-meter provider offers a consumer an arrears payment agreement but the consumer declines to enter into the agreement, the unit sub-meter may proceed with the appropriate steps towards disconnection. In such cases, a unit sub-meter provider would not be required to offer an arrears payment agreement after disconnection (proposed section 4.6.2).

A unit sub-meter provider may require a residential consumer to make a payment of up to 15% of the electricity charges due as part of the arrears management agreement (proposed section 4.6.4).

The Board believes such a down payment requirement remains reasonable for eligible low-income consumers; however, the requirement should be adjusted to a payment of up to 10% for eligible low-income consumers to ensure that they can more readily access arrears payment agreements (proposed section 4.6.5).

While the proposed amendments allow residential consumers to pay the remaining amount outstanding over a period of at least 5 or 10 months (depending on the amount owing), the Board believes that eligible low-income consumers require additional time to repay arrears while maintaining current bill payments so eligible low-income consumers will be given at least 8, 12, or 16 months to repay the arrears (depending on the amount outstanding) (proposed section 4.6.6).

The Board recognizes that unit sub-meter providers may be operating in environments where the consumers are more transient than would typically be experienced with single family home locations. In order to protect the interests of unit sub-meter providers, the Board does not believe a unit sub-meter provider should be required to enter into an arrears payment agreement that lasts any longer than the consumer has an obligation to the Master Consumer (i.e., a tenancy agreement for a rental unit) (proposed section 4.6.8).

Other proposed elements of the arrears payment agreement include, but are not limited to:

- an arrears payment agreement may be terminated and payment requested in full if a consumer misses more than one agreed-upon arrears payment during the course of the agreement (section and 4.6.9);
- eligible low-income consumers must be allowed a minimum of two defaults of a payment due under an arrears payment agreement before the unit sub-meter provider may cancel the arrears payment agreement (section 4.6.14);
- a unit sub-meter provider must give written notice of cancellation to the consumer, and any third party previously designated by the consumer, at least 10 days before the effective date of the cancellation (sections 4.6.10 and 4.6.11);

- unit sub-meter providers only need to offer another arrears payment agreement to a consumer 2 years or more after a first agreement was initiated, provided the earlier agreement was satisfactorily performed (section 4.6.16); and
- unit sub-meter providers must allow eligible low-income consumers to enter into a further arrears payment agreement anytime following the successful completion of a prior arrears payment agreement; however, the timelines for payment under the arrears payment agreement will differ depending on how long it has been since the eligible low-income consumer complemented his or her last arrears payment agreement (section 4.6.17).

There may also be instances where a consumer failed to fulfill his or her obligations under an arrears payment agreement and as a result, the agreement was cancelled and the consumer was disconnected. The Board believes that if such a consumer then paid all of his or her outstanding arrears and the reasonable costs associated with the disconnection and was then reconnected, then the unit sub-meter provider was kept whole but the consumer did not enjoy the benefits of a full arrears payment agreement. In such cases, a unit sub-meter provider may require that the consumer to wait one year from the termination of the previous agreement prior to entering into another arrears payment agreement (proposed section 4.6.19).

6. Management of Consumer Accounts

In the case of licensed electricity distributors, consumers have expressed concerns about some distributors' practice of opening an account in a person's name based on the request of a third party without that first person's knowledge or express consent. For example, a landlord may inform a distributor that a new tenant is moving in and request that the distributor open an account in that person's name even though that person has not yet taken occupancy of the unit. There have also been cases where a tenant will instruct a distributor to close the tenant's account even though the tenant is not vacating the unit (i.e., the tenant may ask the distributor to transfer the account into the landlord's name). These same scenarios could occur in unit sub-metered properties.

The Board does not believe that it is appropriate for a person to be responsible for charges in relation to an account that was opened in the person's name without that person's request or consent. To address this concern, the Board is proposing amendments to alleviate these types of situations.

When a unit sub-meter provider opens an account in the name of a person at the request of a third party (and the third party is not the person's lawyer or in possession of a valid Power of Attorney for the person), the unit sub-meter provider must send a letter to the purported new account holder advising him or her of the opening of the account and requesting that the person confirm that he or she will be the account holder. If the intended account holder does not agree to have the account opened in his or her name, the unit sub-meter provider shall inform the third party that the account will not be set up as requested (proposed sections 4.7.1 and 4.7.2). Where a unit sub-meter provider has opened an account in a person's name at the request of a third party, the unit sub-meter provider shall not seek to recover any charges from that person unless the person has agreed to be the consumer (proposed section 4.7.3).

Where there is a current account holder and that account holder requests that the unit sub-meter provider close or transfer the account for a rental unit or other residential property to a third party, the unit sub-meter provider may not seek to recover any charges for service from any party that has not agreed to assume responsibility for those charges (proposed section 4.7.4).

7. Load Control Devices

The Board believes that standard procedural requirements regulating the installation of any load control devices would prove helpful for all unit sub-metered consumers, just as they exist for unit smart metered consumers (proposed section 4.8). The intent is not to require unit sub-meter providers to provide load control devices but to provide common rules to be followed should a unit sub-meter provider choose to provide such devices.

One of the key proposed requirements (section 4.8.4) is if a unit sub-meter provider installs a load limiter device it shall also deliver a written notice to the consumer explaining certain items in plain language, including but not limited to, the operation of the device, the maximum capacity of the device, and how to reset the device if the maximum capacity is exceeded.

Other proposed amendments include, but are not limited to:

- where a consumer voluntarily requests the installation or continued use of a load limiter device, the unit sub-meter provider shall install a load limiter device provided the unit sub-meter provider ordinarily provides such a service (section 4.8.2);

- where a unit sub-meter provider is notified by a Social Service Agency or Government Agency that it is assessing the consumer for bill payment assistance, the unit sub-meter provider shall refrain from installing the load control device for a period of 21 days after receiving such notification (section 4.8.3); and
- when a unit sub-meter provider installs a load control device, the unit sub-meter provider shall also provide the consumer with the Fire Safety Notice of the Office of the Fire Marshal and any other public safety notices or information bulletins issued by public safety authorities and provided to the unit sub-meter provider (section 4.8.7)

8. Correction of Billing Errors

Whenever a company is billing a consumer for services, there is a risk that mistakes will be made and the consumer may be over-billed or under-billed in certain situations. The Board has imposed certain rules on unit smart meter providers regarding issues like the length of time over which a billing error can be corrected, how to return or collect incorrectly billed amounts, and the payment of interest. The Board believes having the same standardized approach for unit sub-meter providers will benefit both unit sub-metered consumers and the unit sub-meter providers who are providing the billing service.

8.1 Duration of Over or Under-Billing Subject to Refund or Recovery

The Board notes that the *Limitations Act, 2002*, provides a basic two-year limitation period for all claims subject to considerations of discoverability. The Board believes that the same time limit would be proper for a billing adjustment. The Board is therefore proposing that a two year period be adopted for billing corrections (section 4.9.9).

8.2 Over-Billing

Where a consumer has been over-billed, the consumer is in essence deprived of funds that properly belong to him or her as a result of an error committed by the unit sub-meter provider. As a result, the Board considers it appropriate that the consumer be repaid on a timely basis.

Some consumers may wish to receive any billing error refund by cheque rather than a

credit on the account. However, the Board recognizes that there is a cost to the unit sub-meter provider in issuing cheques. The Board believes that a reasonable approach to returning over-billed amounts should include a provision for a credit in some cases and the issuance of a cheque in others.

The Board is proposing that where a unit sub-meter provider has over-billed a consumer by an amount that is less than the consumer's average monthly billing amount, the unit sub-meter provider may automatically credit the account in the next regularly scheduled bill issued to the consumer (section 4.9.3).

Where the amount of the adjustment is equal to or exceeds the consumer's average monthly billing amount, the unit sub-meter provider must contact the consumer within 10 days of the discovery of the error and provide the consumer with the option of receiving payment by cheque or a credit to the account. If after 10 days following the notification the consumer has not requested payment by cheque, the unit sub-meter provider may credit the amount due to the account (section 4.9.2).

Where a consumer has unpaid arrears on the account, the Board believes that any refund should first go to paying arrears with any remaining balance then to be returned to the consumer. Therefore, the Board is proposing to amend the USMC (section 4.9.4) to provide that an over-billing refund may first be applied by the unit sub-meter provider to any outstanding arrears the consumer may have.

The Board is also proposing to add section 4.9.13 to the USMC, which states that the billing correction rules in this section will not apply where the unit sub-meter provider issues a corrected bill within 16 days of issuance of the original bill.

8.3 Under-Billing

Where a consumer has been under-billed, the consumer is in essence holding funds that properly belong to the unit sub-meter provider. However, where this results from an error by the unit sub-meter provider, the Board believes that it would be inappropriate for the consumer to be faced with making a potentially large and unanticipated payment.

Where a consumer is not responsible for the error, the Board believes that it is reasonable for the consumer to be allowed to pay an under-billing adjustment in equal installments. These installments should be spread over a period at least equal to the

duration of the billing error or to the maximum 2 year limit previously set out in these amendments. Therefore, the Board is proposing to amend the USMC by adding section 4.9.5.

The Board believes that the correction of billing error rules applicable to all consumers under section 4.9 of the USMC are flexible enough to fairly address a wide variety of circumstances. But there is one area where a special rule will be proposed for eligible low-income consumers. The Board believes that an extended repayment period is important for eligible low-income consumers who have been under-billed, as they may face multiple payment obligations in the form of their regular bill payments, the under-billing adjustment and possibly an arrears payment agreement.

A rule will therefore be proposed as section 4.9.6 of the USMC. This provision will require that when a unit sub-meter provider issues a bill to a consumer for an under-billed amount, the unit sub-meter provider must advise the consumer that if the consumer qualifies as an eligible low-income consumer, the consumer will have the option of paying the under-billed amount either in accordance with section 4.9.5 of the USMC or over an extended period of time depending on the amount of the under-billing.

Also, as with the other provisions in the proposed amendments that relate to providing an extended time period to repay the unit sub-meter provider for money owing, the Board is proposing to add section 4.9.14 to clarify that despite any other provisions, the maximum length of a payment arrangement is the length of time the consumer has an obligation to the Master Consumer. For example, if under the original proposed rule, the billing error must be repaid over a 6 month period but a tenant only has 3 months left on his or her lease, the unit sub-meter provider is only required to offer a 3 month repayment period.

Where under-billing is the result of tampering, willful damage or unauthorized energy use by a consumer, the Board believes that it is appropriate for a unit sub-meter provider to require immediate payment by the consumer. The Board is proposing to add section 4.9.8 to the USMC. This section provides the unit sub-meter provider with the option of making a billing adjustment on the next regular bill issued to the consumer responsible for the error or on a separate bill.

8.4 *Interest to be Paid*

The Board is of the view that consumers should not be required to pay interest on under-billed amounts where the under-billing results from an error by a unit sub-meter provider.

However, where the under-billed amounts resulted from tampering, willful damage or unauthorized energy use by the consumer, the Board believes that a consumer should be required to pay interest on under-billed amounts. Accordingly, the Board is proposing to add section 4.9.10 to the USMC, which clarifies that in such instances, the unit sub-meter provider may charge an interest rate equal to the prime rate charged by the unit sub-meter provider's bank.

Where a consumer has been over-billed due to an error which is not a result of the unit sub-meter provider's standardized billing practices (i.e., estimated meter reads), the Board is proposing that the unit sub-meter provider shall pay interest to the consumer. Proposed section 4.9.11 states that the rate of such interest shall also be equal to the prime rate charged by the unit sub-meter provider's bank.

C. Customer Service Provisions Not Being Proposed

The Board is not proposing to introduce two sets of provisions that were included as part of the July 2010 Amendments. These excluded provisions relate to equal billing/equal payment plans and the use of credit cards for emergency payments.

The Board is concerned that requiring unit sub-meter providers to offer equal billing/equal payment plans may cause the exempt distributors to violate the requirement they have to distribute electricity for a price no greater than that required to recover all reasonable costs. The Board also acknowledges that some of the smaller unit sub-meter providers may not have the resources available to accept credit card payments.

The Board does note that any unit sub-meter provider that wishes to allow consumers to use credit cards as a form of payment is free to do so at their own discretion.

D. Anticipated Costs and Benefits

Policies regarding matters such as bill payment, security deposits, disconnection and the opening and closing of accounts can have a significant impact on consumers. The Board therefore sees merit in establishing a standard level of service for all unit sub-meter providers to follow. The Board believes that the proposed amendments to the USMC will provide greater protection and certainty for consumers. The Board also anticipates that the introduction of clear, mandatory requirements will limit the number of disputes that might otherwise arise between unit sub-meter providers and their consumers. The proposed amendments are also expected to result in fewer consumers being disconnected, as many of the proposals can assist consumers in better managing payments associated with their electricity consumption, which is in the interests of both consumers and unit sub-meter providers.

The Board acknowledges that these proposals will lead to increased operational costs for unit sub-meter providers. However, the Board believes that the benefits of the proposed amendments will outweigh the costs of the proposed amendments.

E. Coming into Force

The Board proposes that the proposed amendments to the USMC as set out in Attachment A come into force on **January 1, 2013**.

F. Invitation to Comment

All interested parties are invited to submit written comments on the proposed amendments to the USMC as set out in Attachment A by **January 23, 2012**.

Three (3) paper copies of each filing must be provided, and should be sent to:

Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, Suite 2700
Toronto Ontario M4P 1E4

The Board requests that interested parties make every effort to provide electronic copies of their filings in searchable/unrestricted Adobe Acrobat (PDF) format, and to submit their filings through the Board's web portal at **www.errr.ontarioenergyboard.ca**. A user ID is required to submit documents through the Board's web portal. If you do not have a user ID, please visit the "e-filings services" webpage on the Board's website at **www.ontarioenergyboard.ca**, and fill out a user ID password request. Additionally, interested parties are requested to follow the document naming conventions and document submission standards outlined in the document entitled "RESS Document Preparation – A Quick Guide" also found on the e-filing services webpage. If the Board's web portal is not available, electronic copies of filings may be filed by e-mail at **boardsec@ontarioenergyboard.ca**.

Those that do not have internet access should provide a CD or diskette containing their filing in PDF format.

Filings to the Board must be received by the Board Secretary by **4:45 p.m.** on the required date. They must quote file number **EB-2011-0429** and include your name, address, telephone number and, where available, your e-mail address and fax number.

If the written comment is from a private citizen (i.e., not a lawyer representing a client, not a consultant representing a client or organization, not an individual in an organization that represents the interests of consumers or other groups, and not an individual from a regulated entity), before making the written comment available for viewing at the Board's offices or placing the written comment on the Board's website, the Board will remove any personal (i.e., not business) contact information from the written comment (i.e., the address, fax number, phone number, and e-mail address of the individual). However, the name of the individual and the content of the written comment will be available for viewing at the Board's offices and will be placed on the Board's website.

This Notice, including the proposed amendments to the USMC set out in Attachment A, and all written comments received by the Board in response to this Notice, will be available for public viewing on the Board's web site at www.ontarioenergyboard.ca and at the office of the Board during normal business hours.

If you have any questions regarding the proposed amendments to the USMC described in this Notice, please contact Paul Gasparatto at

paul.gasparatto@ontarioenergyboard.ca or at 416-440-7724. The Board's toll free number is 1-888-632-6273.

DATED at Toronto, December 15, 2011

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

Attachments: Attachment A— Proposed Amendments to the USMC
Attachment B – Comparison Version of the USMC Showing All
Proposed Amendments

**Attachment A
To
Notice of Proposed Amendments to the Unit Sub-Metering Code**

December 15, 2011

EB-2011-0429

Proposed Amendments to the USMC

[see separate document attached]

Attachment A

Amendments to the Unit Sub-Metering Code EB-2011-0429

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

1. Section 1.2.1 of the Unit Sub-Metering Code is amended to include the following definitions in the appropriate locations based on alphabetical order:

"eligible low-income consumer" means:

- (a) *a residential electricity consumer who has a pre-tax household income at or below the pre-tax Low Income Cut-Off, according to Statistics Canada, plus 15%, taking into account family size and community size, as qualified by a Social Service Agency or Government Agency; or*
- (b) *a residential electricity consumer who has been qualified for Emergency Financial Assistance;*

"Emergency Financial Assistance" means any Board-approved emergency financial assistance program made available by a distributor to eligible low-income residential consumers;

"load control device" means a load limiter, timed load interrupter or similar device that limits or interrupts normal electricity service;

"load limiter device" means a device that will allow a consumer to run a small number of electrical items in his or her premises at any given time, and if the consumer exceeds the limit of the load limiter, then the device will interrupt the power until it is reset;

"Social Service Agency or Government Agency" means:

- (a) *a social service agency or government agency that partners with a given distributor to assess eligibility for Emergency Financial Assistance; or*
- (b) *a social service agency or government agency that assesses eligibility for other energy financial assistance or low-income financial assistance programs, and partners with a given distributor to qualify consumers for eligibility under this Code;*

"timed load interrupter device" means a device that will completely interrupt the consumer's electricity intermittently for periods of time and allows full load capacity outside of the time periods that the electricity is interrupted;

2. Section 1.3 of the Unit Sub-Metering Code is amended by adding the following new sections:

1.3.2 For the purposes of the definition of "eligible low-income consumer" in section 1.2.1 of this Code, a residential electricity consumer who has been qualified as an eligible low-income consumer shall remain an eligible low-income consumer for a period of 2 years from the date on which he or she was so qualified.

1.3.3 A consumer shall be treated as an eligible low-income consumer for the purposes of this Code once the consumer has been qualified as an eligible low-income consumer according to the definition in section 1.2.1 of this Code or has identified himself or herself as provided under section 1.3.2 of this Code.

3. Section 1.5 of the Unit Sub-Metering Code is amended by adding the following new section:

1.5.4 The amendments to this Code made by the Board on XX, 2012 will come into force on January 1, 2013.

4. Section 4.1.3 of the Unit Sub-Metering Code is amended by adding the phrase "*in the case of a residential consumer or 5 years in the case of a non-residential consumer*" immediately after the words "a good payment history of 1 year".

5. Section 4.1.4 of the Unit Sub-Metering Code is amended by:

- (a) adding a "," and deleting the word "or" immediately after the phrase "more than one pre-authorized payment to the unit sub-meter provider has been returned for insufficient funds"; and
- (b) adding the phrase "*or the unit sub-meter provider had to apply a security deposit in accordance with section 4.1.18 and required the consumer to repay the security deposit in accordance with section 4.1.19*" immediately after the words "a disconnect / collect trip has occurred".

6. Section 4.1 of the Unit Sub-Metering Code is amended by adding the following new sections immediately after section 4.1.5:

4.1.5A When issuing a bill for a security deposit in accordance with section 4.1.3, the unit sub-meter provider shall advise a residential consumer that the security deposit requirement will be waived for an eligible low-income consumer provided that such a consumer contacts the unit sub-meter provider and thereafter confirms his or her low-income eligibility. The unit sub-meter provider shall notify the consumer by means of a bill insert, bill message, letter or outgoing telephone message and shall include the unit sub-meter provider's contact information where the

consumer can obtain further information and a referral to a Social Service Agency or Government Agency to review the consumer's low-income eligibility.

4.1.5B Where a unit sub-meter provider is advised by a Social Service Agency or a Government Agency that the agency is assessing the consumer for eligibility as a low-income consumer, the due date for payment of the security deposit shall be extended for at least 21 days pending the eligibility decision of the Social Service Agency or Government Agency.

4.1.5C A unit sub-meter provider shall not collect a security deposit from a consumer who has been qualified as an eligible low-income consumer and requests a waiver under section 4.1.5A.

7. Section 4.1.8 of the Unit Sub-Metering Code is amended by adding the phrase “, *other than a residential electricity consumer,*” immediately after the phrase “Where a consumer”.

8. Section 4.1.10 of the Unit Sub-Metering Code is amended by adding the word "*residential*" immediately after the phrase "The form of payment of a security deposit for a".

9. Section 4.1 of the Unit Sub-Metering Code is amended by adding the following new section immediately after section 4.1.10:

4.1.10A The form of payment of a security deposit for a non-residential consumer shall be cash, cheque or an automatically renewing, irrevocable letter of credit from a bank as defined in the Bank Act, S.C. 1991, c. 46 at the discretion of the consumer. The unit sub-meter provider may also accept other forms of security such as surety bonds and third party guarantees.

10. Section 4.1 of the Unit Sub-Metering Code is amended by adding the following new section immediately after section 4.1.11:

4.1.11A Despite section 4.1.11, a unit sub-meter provider shall permit a residential consumer to provide a security deposit in equal installments paid over a period of at least 6 months, including where a new security deposit is required due to the unit sub-meter provider having applied the existing security deposit against amounts owing under section 4.1.18. A consumer may elect to pay the security deposit over a shorter period of time.

11. Section 4.1.13 of the Unit Sub-Metering Code is amended by adding the phrase "*or 4.1.5C*" immediately after the phrase "paying a security deposit under 4.1.3".

12. Section 4.1 of the Unit Sub-Metering Code is amended by adding the following new section immediately after section 4.1.13:

4.1.13A For the purposes of section 4.1.13, where a residential consumer has paid a security deposit in installments, a unit sub-meter provider shall conduct a review of the consumer's security deposit in the calendar year in which the anniversary of the first installment occurs and thereafter at the next review as required by this Code.

13. Section 4.1.14 of the Unit Sub-Metering Code is amended by adding the phrase "or 4.1.5C" immediately after the phrase "would be exempt from paying a security deposit under section 4.1.3".

14. Section 4.1 of the Unit Sub-Metering Code is amended by adding the following new sections immediately after section 4.1.14:

4.1.14A For the purposes of section 4.1.14, where a residential consumer has paid a security deposit in installments, the consumer shall not be entitled to request a review of the security deposit until 12 months after the first installment was paid.

4.1.14B A unit sub-meter provider shall give notice to all residential consumers, at least annually, that any residential consumer that qualifies as an eligible low-income consumer may request and receive a refund of any security deposit previously paid to the unit sub-meter provider by the consumer, after application of the security deposit to any outstanding arrears on the consumer's account.

4.1.14C Where an eligible low-income consumer requests refund of a security deposit previously paid to a unit sub-meter provider by the consumer, the unit sub-meter provider shall advise the consumer within 10 days of the request that the balance remaining after application of the security deposit to any outstanding arrears will be credited to his or her account where the remaining amount is less than one month's average billing or, where the remaining amount is equal to or greater than one month's average billing, the consumer may elect to receive the refund by cheque and the unit sub-meter provider shall issue a cheque within 11 days of the consumer requesting payment by cheque.

15. Section 4.1.15 of the Unit Sub-Metering Code is amended by adding the following sentence after the first sentence:

Despite section 4.1.11, where the unit sub-meter provider determines in conducting a review under section 4.1.13 or 4.1.14 that the maximum amount of the security deposit is to be adjusted upward, the unit sub-meter provider may require the consumer to pay this

additional amount at the same time as that consumer's next regular bill comes due.

16. Section 4.1 of the Unit Sub-Metering Code is amended by adding the following new section immediately after section 4.1.15:

4.1.15A Despite section 4.1.15, where a residential electricity consumer is required to adjust the security deposit upwards, a unit sub-meter provider shall permit the consumer to pay the adjustment amount in equal installments paid over a period of at least 6 months. A consumer may elect to pay the security deposit over a shorter period of time.

17. Section 4.1.17 of the Unit Sub-Metering Code is amended by adding “*Despite sections 4.1.13, 4.1.14, 4.1.15, and 4.1.16,*” at the start of the paragraph and replacing the capital “W” with a lower case “w”.

18. Section 4.1 of the Unit Sub-Metering Code is amended by adding the following new sections immediately after section 4.1.17:

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

4.1.19 Where a unit sub-meter provider applies all or part of a security deposit to offset amounts owing by a residential consumer under section 4.1.18, the unit sub-meter provider may request that the consumer repay the amount of the security deposit that was so applied. The unit sub-meter provider shall allow the residential consumer to repay the security deposit in installments in accordance with section 4.1.11A.

19. The Unit Sub-Metering Code is amended by adding the following new sections immediately after section 4.2.5:

4.2.5A A unit sub-meter provider that intends to disconnect, pursuant to section 31 of the Electricity Act, the property of a residential consumer for non-payment shall send or deliver a disconnection notice to the consumer that contains, at a minimum, the following information:

- (a) the date on which the disconnection notice was printed by the unit sub-meter provider;*
- (b) the earliest and latest dates on which disconnection may occur, in accordance with sections 4.2.5C and 4.2.6;*

- (c) *the amount that is then overdue for payment, including all applicable late payment and other charges associated with non-payment to that date;*
- (d) *the amount of any service charge(s) that may apply if disconnection occurs, and the circumstances in which each of these charges is payable;*
- (e) *the forms of payment that the consumer may use to pay all amounts that are identified as overdue in the disconnection notice, including any method of payment that the unit sub-meter provider ordinarily accepts and which can be verified within the time period remaining before disconnection;*
- (f) *the time period during which any given form of payment listed under paragraph (e) will be accepted by the unit sub-meter provider;*
- (g) *that a disconnection may take place whether or not the consumer is at the premises;*
- (h) *that, where applicable, the disconnection may occur without attendance at the consumer's premises;*
- (i) *that a Board-prescribed standard arrears management program may be available to all residential consumers, along with contact information for the unit sub-meter provider where the consumer can obtain further information;*
- (j) *that the following additional assistance may be available to an eligible low-income consumer, along with contact information for the unit sub-meter provider or distributor, as applicable, where the consumer can obtain further information about the additional assistance:*
 - (i) *a Board-prescribed arrears management program, and other expanded consumer service provisions, specifically for eligible low-income consumers; and*
 - (ii) *a Board-approved Emergency Financial Assistance program administered through a Social Service Agency or Government Agency;*
- (k) *that the unit sub-meter provider may install a load control device at the consumer's premises in lieu of disconnection; and*
- (l) *any additional option(s) that the unit sub-meter provider chooses, in its discretion, to offer to the consumer to avoid disconnection and the deadline for the consumer to avail himself or herself of such option(s).*

4.2.5B *A unit sub-meter provider that sends or delivers to a consumer a disconnection notice, pursuant to section 31(2) of the Electricity Act, for non-payment shall not include that notice in the same envelope as a*

bill or any other documentation emanating from the unit sub-meter provider.

- 4.2.5C A unit sub-meter provider shall, at the request of a residential consumer, send a copy of any disconnection notice issued to the consumer for non-payment to a third party designated by the consumer 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 4.2.6. In such a case:*
- (a) the unit sub-meter provider shall notify the third party that the third party is not, unless otherwise agreed with the unit sub-meter provider, responsible for the payment of any charges for the provision of electricity service in relation to the consumer's property; and*
 - (b) the rules set out in sections 4.5.4 and 4.5.11 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.*
- 4.2.5D A residential consumer may, at any time prior to disconnection, designate a third party to also receive any future notice of disconnection and the unit sub-meter provider shall send notice of disconnection to such third party.*
- 4.2.5E A unit sub-meter provider shall accept electronic mail (e-mail) or telephone communications from the consumer for purposes of section 4.2.5D.*
- 4.2.5F A 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 4.2.6, determined in accordance with the rules set out in section 4.5.11. A unit sub-meter provider may not thereafter disconnect the property of the consumer for non-payment unless the unit sub-meter provider issues a new disconnection notice in accordance with section 4.2.5A.*
- 4.2.5G A unit sub-meter provider shall make reasonable efforts to contact, in person or by telephone, a residential consumer to whom the unit sub-meter provider has issued a disconnection notice for non-payment at least 48 hours prior to the scheduled date of disconnection. At that time, the unit sub-meter provider shall:*

- (a) *advise the consumer of the scheduled date for disconnection;*
- (b) *advise the consumer that a disconnection may take place whether or not the consumer is at the premises;*
- (c) *where applicable, advise the consumer that the disconnection may occur without attendance at the consumer's premises;*
- (d) *advise the consumer of the forms of payment that the consumer may use to pay all amounts that are identified as overdue in the disconnection notice, including any method of payment that the unit sub-meter provider ordinarily accepts and which can be verified within the time period remaining before disconnection; and advise during what hours such payments may be made;*
- (e) *advise the consumer that a Board-prescribed standard arrears management program may be available to all residential consumers; the unit sub-meter provider must be prepared to enter into an arrears payment agreement at that time if the consumer is eligible under section 4.6;*
- (f) *advise that the following additional assistance may be available to an eligible low-income consumer, along with contact information for the unit sub-meter provider or distributor, as applicable, where the consumer can obtain further information about the additional assistance:*
 - (i) *a Board-prescribed arrears management program, and other expanded consumer service provisions, specifically for eligible low-income consumers; and*
 - (ii) *a Board-approved Emergency Financial Assistance program administered through a Social Service Agency or Government Agency; and*
- (g) *advise the consumer of any additional option(s) that the unit sub-meter provider, in its discretion, wishes to offer to the consumer to avoid disconnection.*

4.2.5H *A unit sub-meter provider shall suspend any disconnection action for a period of 21 days from the date of notification by a Social Service Agency or Government Agency that it is assessing a residential consumer for the purposes of determining whether the consumer is eligible to receive such assistance, provided such notification is made within 10 days from the date on which the disconnection notice is received by the consumer. Where a residential consumer had requested prior to the issuance of the disconnection notice that the unit sub-meter provider also provide a copy of any disconnection notice to a third party, the unit sub-meter provider shall suspend any disconnection action for a period of 21 days from the date of notification by the third party that he, she or it is attempting to arrange assistance with the bill payment, provided such notification is made*

within 10 days from the date on which the disconnection notice is received by the consumer.

4.2.5I Despite section 4.2.5H, upon notification by a Social Service Agency or Government Agency that a consumer is not eligible to receive such assistance, or if another third party who was considering the provision of bill assistance decides not to proceed, the unit sub-meter provider may continue its disconnection process. Unit sub-meter providers will have up to 11 days to act on the previous disconnection notice and must make a further reasonable effort to contact the consumer in accordance with section 4.2.5G prior to executing disconnection.

20. Section 4.2.6 of the Unit Sub-Metering Code is deleted and replaced with the following new sections:

4.2.6 A unit sub-meter provider shall not disconnect a consumer for non-payment until the following minimum notice periods have elapsed.

- (a) 60 days from the date on which the disconnection notice is received by the consumer, in the case of a residential consumer that has provided the unit sub-meter provider with documentation from a physician confirming that disconnection poses a risk of significant adverse effects on the physical health of the consumer or on the physical health of the consumer's spouse, dependent family member or other person that regularly resides with the consumer; or*
- (b) 10 days from the date on which the disconnection notice is received, in all other cases.*

4.2.6A For the purposes of section 4.2.6:

- (a) where a disconnection notice is sent by mail, the disconnection notice shall be deemed to have been received by the consumer on the third business day after the date on which the notice was printed by the unit sub-meter provider;*
- (b) where a disconnection notice is delivered by personal service, the disconnection notice shall be deemed to have been received by the consumer on the date of delivery;*
- (c) where a disconnection notice is delivered by being posted on the consumer's property, the disconnection notice shall be deemed to have been received by the consumer 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*

(f) *the unit sub-meter provider shall apply the rules relating to the computation of time set out in section 4.5.11.*

21. Section 4.2.9(g) of the Unit Sub-Metering Code is amended by an "s" to the word "section" and by adding the phrase "*and 4.1.11A*" at the end of the section.
22. Section 4 of the Unit Sub-Metering Code is amended by adding the following new headings and sections immediately after section 4.4.1:

4.5 *Bill Issuance and Payment*

4.5.1 *A unit sub-meter provider shall include on each bill issued to a consumer the date on which the bill is printed.*

4.5.2 *Except as otherwise permitted by this Code, a unit sub-meter provider shall not treat a bill issued to a consumer 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 4.5.3 has elapsed.*

4.5.3 *For the purposes of section 4.5.2, the minimum payment period shall be 16 days from the date on which the bill was issued to the consumer.*

A unit sub-meter provider may provide for longer minimum payment periods, provided that any such longer minimum payment periods are documented in the unit sub-meter provider's Conditions of Service.

4.5.4 *For the purposes of section 4.5.3, a bill will be deemed to have been issued to a consumer:*

- (a) *if sent by mail, on the third day after the date on which the bill was printed by the unit sub-meter provider;*
- (b) *if made available over the internet, on the date on which an e-mail is sent to the consumer notifying the consumer 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.*

4.5.5 *A unit sub-meter provider shall apply the following rules for purposes of determining the date on which payment of a bill has been received from a consumer:*

- (a) *if paid by mail, three days prior to the date on which the unit sub-meter provider receives the payment;*
 - (b) *if paid at a financial institution or electronically, on the date on which the payment is acknowledged or recorded by the consumer's financial institution; or*
 - (c) *if credit card payment is accepted by the unit sub-meter provider, and if paid by credit card issued by a financial institution, on the date and at the time that the charge is accepted by the financial institution.*
- 4.5.6 *Where a bill issued to a residential consumer includes charges for goods or services other than electricity charges, a unit sub-meter provider shall allocate any payment made by the consumer first to the electricity charges and then, if funds are remaining, to the charges for other goods or services.*
- 4.5.7 *Section 4.5.6 does not apply to existing joint billing agreements until the renewal date of such agreements or 2 years, whichever comes earlier, and thereafter the provisions of section 4.5.6 will be deemed applicable.*
- 4.5.8 *Where payment on account of a bill referred to in section 4.5.6 or 4.5.7 is sufficient to cover electricity charges, security deposits and billing adjustments, the unit sub-meter provider shall not impose late payment charges, issue a disconnection notice or disconnect electricity supply.*
- 4.5.9 *Subject to section 4.5.7, where payment on account of a bill referred to in section 4.5.6 or 4.5.7 is not sufficient to cover electricity charges, security deposits and billing adjustments, the unit sub-meter provider shall allocate the payments in the following order: electricity charges as defined in section 4.5.10, payments towards an arrears payment agreement, outstanding security deposit, under-billing adjustments and non-electricity charges.*
- 4.5.10 *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 prescribed by regulations under section 25.33 of the Electricity Act and all applicable taxes on those charges;*
 - (c) *unit sub-metering charges and charges for any associated and ancillary services, including charges for the provision and*

maintenance of unit sub-meters, late payment charges and other billing and collecting payment services in respect of the electricity consumed by the consumer, and all applicable taxes on those charges; and

- (d) 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 consumer or as may be designated by the Board for the purposes of this section, but not including security deposits or amounts owed by a consumer pursuant to an arrears payment agreement or a billing adjustment.*

4.5.11 *For the purposes of section 4.5, a unit sub-meter provider 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 consumer, occurs on a day that is not a business day, it shall be deemed to have occurred on the next business day;*
- (d) where an act, other than payment by a consumer, occurs after 5:00 p.m., it shall be deemed to have occurred on the next business day; and*
- (e) receipt of a payment by a consumer is effective on the date that the payment is made, including payments made after 5:00 p.m.*

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.

4.6 Arrears Payment Agreements

4.6.1 *A unit sub-meter provider shall make available to any residential electricity consumer who is unable to pay his or her outstanding electricity charges, as defined in section 4.5.10, the opportunity to enter into an arrears payment agreement with the unit sub-meter provider. The arrears payment agreement shall include, at a minimum, the terms and conditions specified in sections 4.6.3 - 4.6.16 inclusive.*

4.6.2 *If a unit sub-meter provider enters into discussions with a residential consumer and offers an arrears agreement but the consumer declines*

to enter into an arrears agreement, the unit sub-meter provider may proceed with disconnection and is not required to offer an arrears agreement to such a consumer after disconnection.

- 4.6.3 *Before entering into an arrears payment agreement under section 4.6, a unit sub-meter provider shall apply any security deposit held on account of the consumer against any electricity charges owing at the time.*
- 4.6.4 *As part of the arrears payment agreement, a unit sub-meter provider may require that the consumer pay a down payment of up to 15% of the electricity charges arrears accumulated, inclusive of any applicable late payment charges, when entering into the arrears management program.*
- 4.6.5 *Where an eligible low-income consumer enters into an arrears payment agreement for the first time or subsequent to having successfully completed a previous arrears payment agreement as an eligible low-income consumer, a unit sub-meter provider may require that the consumer pay a down payment of up to 10% of the electricity charge arrears accumulated, inclusive of late payment charges.*
- 4.6.6 *The arrears payment agreement referred to in section 4.6.1 shall allow the residential consumer to pay all remaining electricity charges that are then overdue for payment as well as the current bill amount if the consumer elects to do so, after applying a security deposit under section 4.6.3, and the down payment referred to in section 4.6.4, including all electricity-related service charges that have accrued to the date of the agreement, over the following periods:*
- (a) *a period of at least 5 months, where the total amount of the electricity charges remaining overdue for payment is less than twice the consumer's average monthly billing amount;*
 - (b) *a period of at least 10 months, where the total amount of the electricity charges remaining overdue for payment is equal to or exceeds twice the consumer's average monthly billing amount;*
 - (c) *in the case of an eligible low-income consumer, a period of at least 8 months, where the total amount of the electricity charges remaining overdue for payment is less than or equal to 2 times the consumer's average monthly billing amount;*
 - (d) *in the case of an eligible low-income consumer, a period of at least 12 months where the total amount of the electricity charges remaining overdue for payment exceeds 2 times the consumer's average monthly billing amount and is less than or equal to 5 times the consumer's average monthly billing amount;*
or

- (e) *in the case of an eligible low-income consumer, a period of at least 16 months where the total amount of the electricity charges remaining overdue for payment exceeds 5 times the consumer's average monthly billing amount.*
- 4.6.7 *For the purposes of section 4.6.6, the 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 a consumer of the unit sub-meter provider for less than 12 months, the consumer's average monthly billing amount shall be based on a reasonable estimate made by the unit sub-meter provider. For the purposes of this section, "electricity charges" has the same meaning as in section 4.5.10.*
- 4.6.8 *Despite section 4.6.6, a unit sub-meter provider shall not be required to offer an arrears payment agreement time period to a residential consumer that extends past the length of time that the residential consumer has an obligation to the master consumer.*
- 4.6.9 *Where a residential consumer defaults on more than one occasion in making a payment in accordance with an arrears payment agreement, or a payment on account of a current electricity charge billing, a security deposit amount or an under-billing adjustment, the unit sub-meter provider may cancel the arrears payment agreement.*
- 4.6.10 *If the unit sub-meter provider cancels an arrears payment agreement pursuant to section 4.6.9, the unit sub-meter provider will give written notice of cancellation to the consumer and to any third party designated by the consumer under section 4.6.11 at least 10 days before the effective date of the cancellation.*
- 4.6.11 *Where, at the time of entering into an arrears payment agreement a consumer has designated a third party to receive notice of cancellation of the arrears payment agreement, the unit sub-meter provider shall provide notice of cancellation to such third party.*
- 4.6.12 *A unit sub-meter provider shall accept electronic mail (e-mail) or telephone communications from the consumer for purposes of section 4.6.11.*
- 4.6.13 *If the consumer makes payment of all amounts due pursuant to the arrears payment agreement as of the cancellation date referred to in section 4.6.10 and makes such payment on or before the cancellation date, the unit sub-meter provider shall reinstate the arrears payment agreement.*

- 4.6.14 *Where an eligible low-income consumer defaults on more than two occasions in making a payment in accordance with an arrears payment agreement, or a payment on account of a current electricity charge billing or an under-billing adjustment, the unit sub-meter provider may cancel the arrears payment agreement.*
- 4.6.15 *For purposes of sections 4.6.9 and 4.6.14, the defaults must occur over a period of at least 2 months before the unit sub-meter provider may cancel the arrears payment agreement.*
- 4.6.16 *A unit sub-meter provider shall make available to a residential electricity consumer a second arrears payment agreement if the consumer so requests, provided that 2 years or more has passed since a first arrears payment agreement was entered into and provided that the consumer performed his or her obligations under the first arrears payment agreement.*
- 4.6.17 *In the case of an eligible low-income consumer, the unit sub-meter provider shall allow such a consumer to enter into a subsequent arrears payment agreement upon successful completion of the previous arrears payment agreement on the following terms:*
- (a) if a second or subsequent arrears agreement is requested less than 12 months from the date of completion of the previous arrears payment agreement, then the standard arrears payment agreement terms applicable to all residential consumers under sections 4.6.1 to 4.6.10 also apply to the eligible low-income consumer; or*
 - (b) if a second or subsequent arrears agreement is requested 12 months or more from the date of completion of the previous arrears payment agreement, the eligible low-income consumer shall be entitled to the arrears payment agreement terms set out in sections 4.6.5, 4.6.6(c), 4.6.6(d), 4.6.6(e), 4.6.14, and 4.6.15.*
- 4.6.18 *The unit sub-meter provider shall not disconnect the property of a residential consumer, for failing to make a payment subject to an arrears payment agreement, unless the consumer is in default, according to sections 4.6.9, 4.6.14 and 4.6.15, and the unit sub-meter provider has cancelled the arrears payment agreement in accordance with the provisions of this Code.*
- 4.6.19 *In the event a residential electricity consumer failed to perform his or her obligations under a previous arrears payment agreement and the unit sub-meter provider terminated the agreement pursuant to section 4.6.9, the unit sub-meter provider may require that the consumer wait 1*

year after termination of the previous agreement before entering into another arrears payment agreement with the unit sub-meter provider.

4.7 Opening and Closing of Accounts

4.7.1 Where a unit sub-meter provider opens an account for a property in the name of a person at the request of a third party, the unit sub-meter provider shall within 15 days of the opening of the account send a letter to the person advising of the opening of the account and requesting that the person confirm that he or she agrees to be the named consumer. If the unit sub-meter provider does not receive confirmation from the intended consumer, within 15 days of the date of the letter, the unit sub-meter provider shall advise the third party that the account will not be set up as requested.

4.7.2 The unit sub-meter provider is not required to send a letter advising of the opening of the account where the request to open the account is made in writing by the person's solicitor or person in possession of a valid Power of Attorney for the person.

4.7.3 Despite any other provision of this Code, with the exception of the parties mentioned in section 4.7.2, where a unit sub-meter provider has opened an account for a property in the name of a person at the request of a third party, the unit sub-meter provider shall not seek to recover from that person any charges for service provided to the property unless the person has agreed to be the consumer of the unit sub-meter provider in relation to the property.

4.7.4 Despite any other provision of this Code, with the exception of the parties mentioned in section 4.7.2, where a unit sub-meter provider receives a request to close or transfer 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 unit sub-meter provider 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 to assume responsibility for those charges.

4.8 Use of Load Control Devices

4.8.1 A unit sub-meter provider may install a load control device instead of disconnecting supply to a consumer for non-payment, provided that the unit sub-meter provider complies with the provisions set out in sections 4.8.4, 4.8.5, 4.8.6, 4.8.7, 4.8.8, 4.8.9, and 4.8.11.

- 4.8.2 *Where a consumer voluntarily requests the installation or continued use of a load limiter device, the unit sub-meter provider shall install a load limiter device provided the unit sub-meter provider ordinarily provides such a service.*
- 4.8.3 *Where a unit sub-meter provider is notified by a Social Service Agency or Government Agency that the agency is assessing the consumer for Emergency Financial Assistance, the unit sub-meter provider shall refrain from installing a load control device for a period of 21 days after receiving such notification.*
- 4.8.4 *When the unit sub-meter provider installs a load limiter device, either for non-payment or at the consumer's request, it shall also deliver a written notice to the consumer explaining in plain language the operation of the device, the maximum capacity of the device, how to reset the device if the maximum capacity is exceeded, as well as a telephone number for the consumer to obtain further information and an emergency telephone number to contact if the capacity is exceeded and the consumer cannot manually reset the device for any reason.*
- 4.8.5 *When the unit sub-meter provider installs a load limiter device for non-payment that cannot be manually reset by the consumer after the maximum limit is triggered, then the unit sub-meter provider must provide a 24-hour telephone number the consumer may call to have the load limiter device remotely reset.*
- 4.8.6 *When the unit sub-meter provider installs a timed load interrupter for non-payment, it shall also deliver a written notice to the consumer explaining in plain language the effect of the device on service and a telephone number for the consumer to obtain further information.*
- 4.8.7 *When a unit sub-meter provider installs a load control device for non-payment, the unit sub-meter provider shall also provide to the consumer:*
- (a) the Fire Safety Notice of the Office of the Fire Marshal; and*
 - (b) any other public safety notices or information bulletins issued by public safety authorities and provided to the unit sub-meter provider, which provide information to consumers respecting dangers associated with the disconnection of electricity service.*
- 4.8.8 *A load control device may not be installed at a residential consumer's property during the course of an arrears payment agreement, unless the agreement has been terminated in accordance with the provisions of this Code.*

- 4.8.9 *Where a unit sub-meter provider had previously installed a load control device for non-payment and the residential consumer then enters into an arrears payment agreement, the unit sub-meter provider shall remove the device within 2 business days of the consumer entering into an arrears payment agreement.*
- 4.8.10 *Despite sections 4.8.8 and 4.8.9, a consumer may request the installation or continued use of the load limiter device during the course of the arrears payment agreement where the unit sub-meter provider ordinarily provides such a service.*
- 4.8.11 *Subject to section 4.8.9, where a load control device was installed by a unit sub-meter provider for non-payment, the unit sub-meter provider shall remove the load control device within 2 business days of an outstanding account being paid in full.*

4.9 Billing Errors

- 4.9.1 *The following rules apply to billing errors in respect of which Measurement Canada has not become involved in the dispute.*
- 4.9.2 *Where a unit sub-meter provider has over billed a consumer by an amount that is equal or exceeds the consumer's average monthly billing amount, determined in accordance with section 4.6.7, the unit sub-meter provider shall, within 10 days of determination of the error, notify the consumer of the over billing and advise that the consumer may elect to have the full amount credited to their account or repaid in full by cheque, within 11 days of requesting payment by cheque. Where the consumer has not requested payment by cheque within 10 days of notification of the error by the unit sub-meter provider, the unit sub-meter provider may credit the full amount to the account.*
- 4.9.3 *Where a unit sub-meter provider has over billed a consumer by an amount that is less than the consumer's average monthly billing amount, determined in accordance with section 4.6.7, the unit sub-meter provider shall credit the account in the next regularly scheduled bill issued to the consumer.*
- 4.9.4 *If there are outstanding arrears on the consumer's account, the unit sub-meter provider is not required to repay the over-billed amount but may apply it to the arrears on the consumer's account and credit or repay to the consumer the remaining balance.*
- 4.9.5 *Where a unit sub-meter provider has under billed a consumer who is not responsible for the error, the unit sub-meter provider shall allow the consumer to pay the under-billed amount in equal installments over a*

period at least equal to the duration of the billing error, up to a maximum of 2 years.

- 4.9.6 *Where a unit sub-meter provider issues a bill to a consumer for an under-billed amount, the unit sub-meter provider shall notify the consumer that, if the consumer is an eligible low-income consumer, he or she has the option of paying the under-billed amount as follows:*
- a) *in accordance with section 4.9.5; or*
 - b) *over a period of 10 months where the under-billed amount is less than twice the consumer's average monthly billing and over a period of 20 months where the under-billed amount equals or exceeds twice the consumer's average monthly billing.*
- 4.9.7 *For the purposes of section 4.9.6, the unit sub-meter provider may notify the consumer by way of bill insert, bill message, letter or outgoing telephone message.*
- 4.9.8 *Where a unit sub-meter provider has under billed a consumer who is responsible for the error, whether by way of tampering, willful damage, unauthorized energy use or other unlawful actions, the unit sub-meter provider 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 or on a separate bill to be issued to the consumer responsible for the error. Where disconnection has occurred, the unit sub-meter provider may require payment of such bill prior to the reconnection of service upon request by the consumer responsible for the tampering, willful damage, unauthorized energy use or other unlawful actions that caused the under billing.*
- 4.9.9 *Where the unit sub-meter provider has under billed a consumer, the maximum period of under billing for which the unit sub-meter provider is entitled to be paid is 2 years. Where the unit sub-meter provider has over billed a consumer, the maximum period of over billing for which the consumer is entitled to be repaid is 2 years.*
- 4.9.10 *A unit sub-meter provider 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 other unlawful actions. Such interest shall be equal to the prime rate charged by the unit sub-meter provider's bank.*
- 4.9.11 *A unit sub-meter provider that has over billed a consumer and the billing error is not the result of a unit sub-meter provider's standard documented billing practices, shall pay interest on the amount credited*

or repaid to the consumer equal to the prime rate charged by the unit sub-meter provider's bank.

- 4.9.12 The unit sub-meter provider is responsible for advising the consumer of any meter error and of his, her or its rights and obligations under the Electricity and Gas Inspection Act (Canada). The unit sub-meter provider is also responsible for subsequently settling actual payment differences with the consumer as described above.*
- 4.9.13 The provisions of section 4.9 do not apply where the unit sub-meter provider has over billed or under billed a consumer but issues a corrected bill within 16 days of the issue date of the original erroneous bill.*
- 4.9.14 Despite sections 4.9.5 and 4.9.6, a unit sub-meter provider shall not be required to allow a consumer to repay an under-billed amount over a time period that extends past the length of time that the consumer has an obligation to the master consumer.*

**Attachment B
To
Notice of Proposed Amendments to the Unit Sub-Metering Code**

December 15, 2011

EB-2011-0429

Comparison Version of the USMC Showing All Proposed Amendments

[see separate document attached]



ONTARIO ENERGY BOARD

Unit Sub-Metering Code

Revised on **XX, 2012**
(Originally Issued on July 24, 2008)

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Unit Sub-Metering Code

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Unit Sub-Metering Code

1 GENERAL PROVISIONS

1.1 The Purpose of this Code

1.1.1 The purpose of this Unit Sub-Metering Code (the "Code") is to set out the minimum conditions and standards that a licensed unit sub-meter provider must meet when providing unit sub-metering services on behalf of exempt distributors.

1.2 Definitions

1.2.1 In this Code:

"Act" means the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B;

"affiliate" has the same meaning as in the *Business Corporations Act* (Ontario);

"Board" means the Ontario Energy Board;

"business day" means any day that is not a Saturday, a Sunday, or a legal holiday in the Province of Ontario;

"Conditions of Service" means the document developed by unit sub-meter providers in accordance with section 3.2.1 of this Code that describes the operating practices and connection rules for the unit sub-meter provider;

"consumer" means the person who requires an account with the unit sub-meter provider in order to receive metering and billing services;

"ECPA" means the *Energy Consumer Protection Act, 2010*, S.O. 2010, c. 8;

Deleted: "Electricity Act" means the *Electricity Act, 1998*, S.O. 1998, c. 15, Schedule A;

"ECPA Regulation" means Ontario Regulation 389/10;

"Electricity Act" means the *Electricity Act, 1998*, S.O. 1998, c. 15, Schedule A;

"eligible low-income consumer" means:

- (a) a residential electricity consumer who has a pre-tax household income at or below the pre-tax Low Income Cut-Off, according to Statistics Canada, plus 15%, taking into account family size and community size, as qualified by a Social Service Agency or Government Agency; or

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(b) a residential electricity consumer who has been qualified for Emergency Financial Assistance;

"Emergency Financial Assistance" means any Board-approved emergency financial assistance program made available by a distributor to eligible low-income residential consumers;

"exempt distributor" means a distributor as defined in section 3 of the Act who is exempted from various requirements in the Act by Ontario Regulation 161/99;

"IESO" means the Independent Electricity System Operator continued under the Electricity Act;

"interval meter" means a meter that measures and records electricity use on an hourly or sub-hourly basis;

"licensed distributor" means the distributor in whose licensed service area the prescribed property is located;

"load control device" means a load limiter, timed load interrupter or similar device that limits or interrupts normal electricity service;

"load limiter device" means a device that will allow a consumer to run a small number of electrical items in his or her premises at any given time, and if the consumer exceeds the limit of the load limiter, then the device will interrupt the power until it is reset;

"master bill" means the bill issued by the licensed distributor to the master consumer;

"master consumer" means the exempt distributor or the person authorized by the ECPA Regulation to retain a unit sub-meter provider for the prescribed property being served by the licensed distributor;

"master meter" means the meter controlled by the licensed distributor and used for settlement of the master bill with the master consumer;

"metering services" means installation, testing, reading, and maintenance of meters;

"prescribed activity" means one of the activities prescribed by the ECPA Regulation;

"prescribed property" means one of the properties or classes of property prescribed by the ECPA Regulation;

"regulation" means a regulation made under the Act, the ECPA, or the Electricity Act;

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"Smart Metering Entity" means the smart metering entity established under Part IV.2 of the Electricity Act, or more specifically, the IESO as prescribed by Ontario Regulation 393/07;

"Social Service Agency or Government Agency" means:

- (a) a social service agency or government agency that partners with a given distributor to assess eligibility for Emergency Financial Assistance; or
- (b) a social service agency or government agency that assesses eligibility for other energy financial assistance or low-income financial assistance programs, and partners with a given distributor to qualify consumers for eligibility under this Code;

"third party" with respect to a unit sub-meter provider, means any person other than the unit sub-meter provider;

"timed load interrupter device" means a device that will completely interrupt the consumer's electricity intermittently for periods of time and allows full load capacity outside of the time periods that the electricity is interrupted;

"validating, estimating and editing" ("VEE") means the process used to validate, estimate and edit raw metering data to produce final metering data or to replicate metering data for settlement purposes.

1.3 Interpretations

1.3.1 Unless otherwise defined in this Code, words and phrases shall have the meanings ascribed to them in the Act, the ECPA, or the Electricity Act, as the case may be. Where a word or phrase is defined in this Code, the Act, the ECPA, or the Electricity Act, other parts of speech and grammatical forms of the word or phrase have a corresponding meaning. Headings are for convenience only and shall not affect the interpretation of this Code. Words importing the singular include the plural and vice versa. Words importing a gender include any gender. Words importing a person include: (i) an individual; (ii) a company, sole proprietorship, partnership, trust, joint venture, association, corporation or other private or public body corporate; and (iii) any government, government agency or body, regulatory agency or body or other body politic or collegiate. A reference to a person includes that person's successors and permitted assigns. A reference to a body, whether statutory or not, that ceases to exist or whose functions are transferred to another body is a reference to the body that replaces it or that substantially succeeds to its powers or functions. A reference to a document (including a statutory instrument) or a provision of a document includes any amendment or supplement to, or any replacement of, that document or that provision. The expression "including" means including without limitation.

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1.3.2 For the purposes of the definition of "eligible low-income consumer" in section 1.2.1 of this Code, a residential electricity consumer who has been qualified as an eligible low-income consumer shall remain an eligible low-income consumer for a period of 2 years from the date on which he or she was so qualified.

1.3.3 A consumer shall be treated as an eligible low-income consumer for the purposes of this Code once the consumer has been qualified as an eligible low-income consumer according to the definition in section 1.2.1 of this Code or has identified himself or herself as provided under section 1.3.2 of this Code.

1.4 To Whom this Code Applies

1.4.1 This Code applies to all persons licensed as unit sub-meter providers under section 57(c.1) of the Act.

1.5 Coming into Force

1.5.1 This Code shall come into force on the date that the Board publishes the Code by placing it on the Board's website after it has been made by the Board.

1.5.2 Any amendments to this Code shall come into force on the date the Board publishes the amendments by placing them on the Board's website after they have been made by the Board, except where expressly provided otherwise.

1.5.3 The amendments to this Code made by the Board on December 16, 2010 (to implement the provisions of the ECPA), will come into force on January 1, 2011.

1.5.4 The amendments to this Code made by the Board on XX, 2012 will come into force on [January 1, 2013](#).

1.6 Requirements for Board Approvals

1.6.1 Any matter under this Code requiring a determination of the Board may be determined by the Board without a hearing or through an oral, written or electronic hearing, at the Board's discretion.

1.7 Contract with a Prescribed Property

1.7.1 A unit sub-meter provider shall not undertake any prescribed activity in a prescribed property unless the unit sub-meter provider has a contract with the master consumer to do so.

2 METERING

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2.1 Technical Requirements for Unit Sub-Meters

2.1.1 Note: Section 2.1.1 was revoked effective December 16, 2010.

2.2 Technical Requirements for the Master Meter

2.2.1 A unit sub-meter provider shall ensure that the master consumer has requested, and a distributor has installed, a master meter that is an interval meter before beginning to provide unit sub-metering services.

2.3 Validating, Estimating and Editing Process

2.3.1 Metering data collected by a unit sub-meter provider shall be subjected to a validating, estimating and editing (“VEE”) process if it is to be used for billing purposes.

2.3.2 A unit sub-meter provider shall establish a VEE process that is fair and reasonable and provides assurance that correct data is submitted for the billing process. The VEE process shall do the following:

- (a) convert raw metering data into validated, corrected or estimated “bill-ready” metering data suitable for use in determining billing amounts;
- (b) detect errors in metering data introduced as a result of improper operational conditions and/or hardware/software malfunctions, including failures of or errors in metering or communication hardware, and metering data exceeding pre-defined variances or tolerances; and
- (c) use operational system data, including historical load patterns and data collected by the unit sub-meter provider, as appropriate, for validating raw metering data, and for editing, estimating and correcting metering data found to be erroneous or missing.

2.3.3 A unit sub-meter provider’s VEE process for data from the unit sub-meters shall consider industry standards specified by the SME in its VEE process for smart meters.

2.3.4 A unit sub-meter provider shall document and make available its VEE process and criteria, and allow scrutiny of its process by consumers, retailers, the Board and Measurement Canada.

2.4 Metering Services

2.4.1 A unit sub-meter provider shall comply with Measurement Canada standards as a minimum metering installation and measurement standard, and may apply any other practices that exceed those standards.

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- 2.4.2 A unit sub-meter provider shall ensure that persons involved in metering services have competency in performing these services. Competency may be based on recognized qualification requirements that include a training course that meets the requirements of the tasks to be performed. Metering services provided by a person that does not have the recognized qualification requirements shall be reviewed, affirmed and documented by a person with exhibited competency.
- 2.4.3 A unit sub-meter provider shall exercise appropriate diligence in detecting and acting upon instances of tampering with metering equipment. Upon identification of possible meter tampering, the unit sub-meter provider should notify, as appropriate, Measurement Canada, police officials, the Electrical Safety Authority, or other entities.
- 2.4.4 Nothing in this Code shall affect the obligation of a unit sub-meter provider to comply with all Measurement Canada requirements provided that, where this Code or other conditions of licence prescribe a higher standard than that prescribed in those requirements, the unit sub-meter provider shall comply with the higher standard.
- 2.4.5 A unit sub-meter provider shall respond to consumer metering disputes, and shall establish a fair and reasonable charge for costs associated with resolution of these disputes. If the complaint is substantiated, the charge shall not be applied. In resolving the dispute, a unit sub-meter provider may use a qualified, independent organization at anytime during the dispute resolution process.

3 STANDARDS OF BUSINESS PRACTICE AND CONDUCT

3.1 Disclosure of Agreements and Disclosure in Agreements

- 3.1.1 For any prescribed property subject to section 33(2) of the ECPA, the unit sub-meter provider shall disclose to the master consumer of the prescribed property all agreements between the unit sub-meter provider or its affiliate and the developer of the prescribed property or an affiliate of the developer.
- 3.1.2 A unit sub-meter provider shall provide a copy of the agreements referred to in section 3.1.1 to each consumer upon request.
- 3.1.3 Every contract a unit sub-meter provider has with a consumer or master consumer shall include the following information:

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- (a) the unit sub-meter provider's capital investment and a description of all types of costs that can be included in the capital investment;
- (b) the depreciation method used to depreciate the capital investment if there are to be undepreciated capital costs recovered upon termination of the contract;
- (c) a description of, and whenever possible, the actual amount for, all fees and charges related to the provision of the unit sub-metering service; and
- (d) a description of, and whenever possible, the actual amount for, all fees and charges related to the termination of the contract including:
 - (i) any fees or charges for the disconnection and removal of the installed unit sub-meters;
 - (ii) any fees and charges related to the repayment of the undepreciated capital cost of the unit sub-meter provider's capital investment; and
 - (iii) the length of time allowed to repay the amount in section (ii) above.

3.2 Conditions of Service

- 3.2.1 A unit sub-meter provider shall document its operating practices and connection policies in a document to be entitled Conditions of Service. Subject to this Code and other applicable laws, a unit sub-meter provider shall comply with its Conditions of Service but may waive a provision of its Conditions of Service in favour of a consumer or potential consumer.
- 3.2.2 A unit sub-meter provider shall make its Conditions of Service publicly available, post it on its web-site, and provide a copy to any person requesting it.
- 3.2.3 A unit sub-meter provider shall provide advance notice to its consumers of any changes to its Conditions of Service. Notice shall be, at a minimum, provided to each consumer by means of a note on, or included with, the consumer's bill. The notice shall include a proposed timeline for implementation of the new Conditions of Service and a means by which consumers' comments may be provided.
- 3.2.4 If a unit sub-meter provider amends its Conditions of Service, it shall provide one copy of the amended Conditions of Service for each of its consumers. The copy of the amended document shall include a cover letter that outlines the changes from the prior document, as well as a summary of any consumer comments on the changes.
- 3.2.5 A unit sub-meter provider's Conditions of Service shall include, at a minimum, a description of the following:
 - (a) its billing cycle period and payment requirements;
 - (b) its security deposit procedure;

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- (c) its dispute resolution procedure;
- (d) its business process for disconnecting and reconnecting consumers, including means of notification and timing;
- (e) conditions under which it may disconnect a consumer; and
- (f) the unit sub-meter provider's rights and obligations with respect to a consumer.

3.2.6 The Conditions of Service must be consistent with the provisions of this Code and all other applicable legislation and regulatory requirements.

3.3 Provision of Information to Consumers and Consumer Complaints

3.3.1 A unit sub-metering provider shall communicate general market and educational information to consumers to whom it provides a bill as required by the Board.

3.3.2 A unit sub-meter provider shall provide its address and telephone number to its consumers in all written communications between the unit sub-meter provider and the consumer. The unit sub-meter provider's telephone number must be a local number or one that is capable of being reached without charge to the consumer.

3.3.3 If any consumer makes a complaint to a unit sub-meter provider regarding its services, the unit sub-meter provider shall expeditiously investigate the complaint and take all appropriate and necessary steps to resolve the complaint. If the complaint is not resolved to the satisfaction of the consumer, the unit sub-meter provider shall provide to the consumer the telephone number of the Board's Consumer Relations Centre.

3.3.4 In cases where a consumer complaint has been referred to the unit sub-meter provider from the Board and resolution of the complaint is reached, the unit sub-meter provider shall implement the resolution immediately and shall confirm this, in writing, to the Board.

3.4 Transfer and Assignment of Contracts

3.4.1 A unit sub-meter provider shall not sell, transfer, or assign a contract with a consumer to another person who is not a licensed unit sub-meter provider.

3.4.2 Prior to the sale, transfer, or assignment of a contract, the unit sub-meter provider shall ensure that all relevant consumer information including, but not limited to, information regarding security deposits and consumption, is properly transferred to the new unit sub-meter provider to allow for the continuous billing of consumers.

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- 3.4.3 Prior to the termination of a contract, the unit sub-meter provider shall ensure that all relevant consumer information including, but not limited to, information regarding security deposits and consumption, is properly transferred to the exempt distributor to allow for the continuous billing of consumers.
- 3.4.4 A unit sub-meter provider must notify the Board of any sale, transfer, or assignment of contracts within 10 days of the sale, transfer, or assignment.
- 3.4.5 Within 60 days of any sale, transfer, or assignment of a contract to another unit sub-meter provider, the new unit sub-meter provider must notify the affected consumers of the new unit sub-meter provider's address and telephone number.

4 BILLING AND COLLECTION

4.1 Security Deposits

- 4.1.1 A unit sub-meter provider who is contracted to collect security deposits on behalf of the master consumer shall ensure that its Conditions of Service include the unit sub-meter provider's security deposit policy which shall be consistent with the provisions of this Code. A unit sub-meter provider's security deposit policy shall include at a minimum the following:
- (a) a list of all potential types/forms of security accepted;
 - (b) a detailed description of how the amount of security is calculated;
 - (c) limits on the amount of security required;
 - (d) the planned frequency, process and timing for updating security deposits;
 - (e) criteria consumers must meet to have security deposit waived and/or returned; and
 - (f) methods of enforcement where a security deposit is not paid.
- 4.1.2 In managing consumers' non-payment risk, a unit sub-meter provider shall not discriminate among consumers with similar risk profiles or risk related factors except where expressly permitted under this Code.
- 4.1.3 A unit sub-meter provider may require a security deposit from a consumer unless the consumer has a good payment history of 1 year in the case of a residential consumer or 5 years in the case of a non-residential consumer. The time period that makes up the good payment history must be the most recent period of time and some of the time period must have occurred in the previous 24 months. A unit sub-meter provider shall provide a consumer with the specific reasons for requiring a security deposit from the consumer.
- 4.1.4 For the purposes of section 4.1.3, a consumer is deemed to have a good payment history unless, during the relevant time period set out in section 4.1.3, the consumer has received more than one disconnection notice from the unit

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sub-meter provider, more than one cheque given to the unit sub-meter provider by the consumer has been returned for insufficient funds, more than one pre-authorized payment to the unit sub-meter provider has been returned for insufficient funds, a disconnect / collect trip has occurred or the unit sub-meter provider had to apply a security deposit in accordance with section 4.1.18 and required the consumer to repay the security deposit in accordance with section 4.1.19. If any of the preceding events occur due to an error by the unit sub-meter provider, the consumer's good payment history shall not be affected.

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4.1.5 For the purposes of section 4.1.3, a unit sub-meter provider shall deem a consumer to have a good payment history if the consumer provides a letter from a licensed electricity distributor or gas distributor in Canada confirming a good payment history with that distributor for the most recent relevant time period set out in section 4.1.3 where some of the time period which makes up the good payment history has occurred in the previous 24 months.

4.1.5A When issuing a bill for a security deposit in accordance with section 4.1.3, the unit sub-meter provider shall advise a residential consumer that the security deposit requirement will be waived for an eligible low-income consumer provided that such a consumer contacts the unit sub-meter provider and thereafter confirms his or her low-income eligibility. The unit sub-meter provider shall notify the consumer by means of a bill insert, bill message, letter or outgoing telephone message and shall include the unit sub-meter provider's contact information where the consumer can obtain further information and a referral to a Social Service Agency or Government Agency to review the consumer's low-income eligibility.

4.1.5B Where a unit sub-meter provider is advised by a Social Service Agency or a Government Agency that the agency is assessing the consumer for eligibility as a low-income consumer, the due date for payment of the security deposit shall be extended for at least 21 days pending the eligibility decision of the Social Service Agency or Government Agency.

4.1.5C A unit sub-meter provider shall not collect a security deposit from a consumer who has been qualified as an eligible low-income consumer and requests a waiver under section 4.1.5A.

4.1.6 The maximum amount of a security deposit which a unit sub-meter provider may require a consumer to pay shall be calculated by multiplying the unit sub-meter provider's billing cycle factor and the consumer's estimated bill (which shall be based on the consumer's average monthly load with the unit sub-meter provider during the most recent 12 consecutive months within the past two years). Where relevant usage information is not available for the consumer for 12 consecutive months within the past two years or where the unit sub-meter provider does not have systems capable of making the above calculation, the consumer's average

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monthly load shall be based on a reasonable estimate made by the unit sub-meter provider.

4.1.7 For the purposes of sections 4.1.6, the billing cycle factor is 2.5 if the consumer is billed monthly, 1.75 if the consumer is billed bi-monthly and 1.5 if the consumer is billed quarterly.

4.1.8 Where a consumer, other than a residential electricity consumer, has a payment history which discloses more than one disconnection notice in a relevant 12 month period, the unit sub-meter provider may use that consumer's highest actual or estimated monthly load for the most recent 12 consecutive months within the past two years for the purposes of making the calculation of the maximum amount of security deposit under section 4.1.6.

4.1.9 Subject to section 4.1.2, a unit sub-meter provider may at its discretion reduce the amount of a security deposit which it requires a consumer to pay for any reason including where the consumer pays under an interim payment arrangement and where the consumer makes pre-authorized payments.

4.1.10 The form of payment of a security deposit for a residential consumer shall be cash or cheque at the discretion of the consumer or such other form as is acceptable to the unit sub-meter provider.

4.1.10A The form of payment of a security deposit for a non-residential consumer shall be cash, cheque or an automatically renewing, irrevocable letter of credit from a bank as defined in the *Bank Act*, S.C. 1991, c. 46 at the discretion of the consumer. The unit sub-meter provider may also accept other forms of security such as surety bonds and third party guarantees.

4.1.11 A unit sub-meter provider shall permit the consumer to provide a security deposit in equal installments paid over at least four months. A consumer may, in its discretion, choose to pay the security deposit over a shorter time period.

4.1.11A Despite section 4.1.11, a unit sub-meter provider shall permit a residential consumer to provide a security deposit in equal installments paid over a period of at least 6 months, including where a new security deposit is required due to the unit sub-meter provider having applied the existing security deposit against amounts owing under section 4.1.18. A consumer may elect to pay the security deposit over a shorter period of time.

4.1.12 Interest shall accrue monthly on security deposits made by way of cash or cheque commencing on receipt of the total deposit required by the unit sub-meter provider. The interest rate shall be at the average over the period of the prime lending rate set by the Bank of Canada less 2 percent. The interest accrued shall be paid out at least once every 12 months or on return of the security

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deposit or upon the application of the security deposit to the consumer's account or upon the closure of the consumer's account, whichever comes first, and may be paid by crediting the account of the consumer or otherwise.

4.1.13 A unit sub-meter provider shall review every consumer's security deposit at least once in a calendar year to determine whether the entire amount of the security deposit is to be returned to the consumer as the consumer is now in a position that it would be exempt from paying a security deposit under section 4.1.3 or 4.1.5C had it not already paid a security deposit or whether the amount of the security deposit is to be adjusted based on a re-calculation of the maximum amount of the security deposit under section 4.1.6.

4.1.13A For the purposes of section 4.1.13, where a residential consumer has paid a security deposit in installments, a unit sub-meter provider shall conduct a review of the consumer's security deposit in the calendar year in which the anniversary of the first installment occurs and thereafter at the next review as required by this Code.

4.1.14 A unit sub-meter provider must respond promptly to a consumer who, no earlier than 12 months after the payment of a security deposit or the making of a prior demand for a review, demands in writing that a unit sub-meter provider undertake a review to determine whether the entire amount of the security deposit is to be returned to the consumer as the consumer is now in a position that it would be exempt from paying a security deposit under section 4.1.3 or 4.1.5C had it not already paid a security deposit or whether the amount of the security deposit is to be adjusted based on a re-calculation of the maximum amount of the security deposit under section 4.1.6.

4.1.14A For the purposes of section 4.1.14, where a residential consumer has paid a security deposit in installments, the consumer shall not be entitled to request a review of the security deposit until 12 months after the first installment was paid.

4.1.14B A unit sub-meter provider shall give notice to all residential consumers, at least annually, that any residential consumer that qualifies as an eligible low-income consumer may request and receive a refund of any security deposit previously paid to the unit sub-meter provider by the consumer, after application of the security deposit to any outstanding arrears on the consumer's account.

4.1.14C Where an eligible low-income consumer requests refund of a security deposit previously paid to a unit sub-meter provider by the consumer, the unit sub-meter provider shall advise the consumer within 10 days of the request that the balance remaining after application of the security deposit to any outstanding arrears will be credited to his or her account where the remaining amount is less than one month's average billing or, where the remaining

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amount is equal to or greater than one month's average billing, the consumer may elect to receive the refund by cheque and the unit sub-meter provider shall issue a cheque within 11 days of the consumer requesting payment by cheque.

4.1.15 Where the unit sub-meter provider determines in conducting a review under section 4.1.13 or 4.1.14 that some or all of the security deposit is to be returned to the consumer, the unit sub-meter provider shall promptly return this amount to the consumer by crediting the consumer's account or otherwise. Despite section 4.1.11, where the unit sub-meter provider determines in conducting a review under section 4.1.13 or 4.1.14 that the maximum amount of the security deposit is to be adjusted upward, the unit sub-meter provider may require the consumer to pay this additional amount at the same time as that consumer's next regular bill comes due.

4.1.15A Despite section 4.1.15, where a residential electricity consumer is required to adjust the security deposit upwards, a unit sub-meter provider shall permit the consumer to pay the adjustment amount in equal installments paid over a period of at least 6 months. A consumer may elect to pay the security deposit over a shorter period of time.

4.1.16 A unit sub-meter provider shall promptly return any security deposit received from the consumer upon closure of the consumer's account, subject to the unit sub-meter provider's right to use the security deposit to set off other amounts owing by the consumer to the unit sub-meter provider. The security deposit shall be returned within six weeks of the closure of an account.

4.1.17 Despite sections 4.1.13, 4.1.14, 4.1.15, and 4.1.16, where all or part of a security deposit has been paid by a third party on behalf of a consumer, the unit sub-meter provider shall return the amount of the security deposit paid by the third party, including interest, where applicable, to the third party. This obligation shall apply where and to the extent that:

- (a) the third party paid all or part (as applicable) of the security deposit directly to the unit sub-meter provider;
- (b) the third party has requested, at the time the security deposit was paid or within a reasonable time thereafter, that the unit sub-meter provider return all or part (as applicable) of the security deposit to it rather than to the consumer; and
- (c) there is not then any amount overdue for payment by the consumer that the unit sub-meter provider is permitted by this Code to off set using the security deposit.

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

4.1.19 Where a unit sub-meter provider applies all or part of a security deposit to offset amounts owing by a residential consumer under section 4.1.18, the unit sub-meter provider may request that the consumer repay the amount of the security deposit that was so applied. The unit sub-meter provider shall allow the residential consumer to repay the security deposit in installments in accordance with section 4.1.11A.

4.2 Disconnection and Reconnection

4.2.1 A unit sub-meter provider shall not disconnect consumers for non-payment of bills unless the master consumer has contracted the unit sub-meter provider to do so on its behalf.

4.2.2 A unit sub-meter provider shall establish a process for disconnection and reconnection that specifies the notification policies for disconnection and reconnection as well as the timing of disconnections and reconnections. In developing physical and business processes for reconnection, a unit sub-meter provider shall consider safety and reliability as a primary requirement. A unit sub-meter provider shall document its business process for disconnection and reconnection in its Conditions of Service.

4.2.3 Without limiting the generality of the foregoing, prior to disconnecting a consumer for non-payment, a unit sub-meter provider shall provide to the consumer, and any person that is to receive notice of the disconnection:

- (a) the Fire Safety Notice of the Office of the Fire Marshal; and
- (b) any other public safety notices or information bulletins issued by public safety authorities and provided to the unit sub-meter provider, which provide information to consumers respecting dangers associated with the disconnection of electricity service.

4.2.4 A unit sub-meter provider shall include a copy of the notices or bulletins referred to in section 4.2.3 with any notice of disconnection that is left at the consumer's property at the time of actual disconnection for non-payment.

4.2.5 A unit sub-meter provider shall inform a consumer responsible for an overdue amount that it may be disconnected in accordance with section 31(2) of the Electricity Act.

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4.2.5A A unit sub-meter provider that intends to disconnect, pursuant to section 31 of the Electricity Act, the property of a residential consumer for non-payment shall send or deliver a disconnection notice to the consumer that contains, at a minimum, the following information:

- (a) the date on which the disconnection notice was printed by the unit sub-meter provider;
- (b) the earliest and latest dates on which disconnection may occur, in accordance with sections 4.2.5C and 4.2.6;
- (c) the amount that is then overdue for payment, including all applicable late payment and other charges associated with non-payment to that date;
- (d) the amount of any service charge(s) that may apply if disconnection occurs, and the circumstances in which each of these charges is payable;
- (e) the forms of payment that the consumer may use to pay all amounts that are identified as overdue in the disconnection notice, including any method of payment that the unit sub-meter provider ordinarily accepts and which can be verified within the time period remaining before disconnection;
- (f) the time period during which any given form of payment listed under paragraph (e) will be accepted by the unit sub-meter provider;
- (g) that a disconnection may take place whether or not the consumer is at the premises;
- (h) that, where applicable, the disconnection may occur without attendance at the consumer's premises;
- (i) that a Board-prescribed standard arrears management program may be available to all residential consumers, along with contact information for the unit sub-meter provider where the consumer can obtain further information;
- (j) that the following additional assistance may be available to an eligible low-income consumer, along with contact information for the unit sub-meter provider or distributor, as applicable, where the consumer can obtain further information about the additional assistance:
 - (i) a Board-prescribed arrears management program, and other expanded consumer service provisions, specifically for eligible low-income consumers; and
 - (ii) a Board-approved Emergency Financial Assistance program administered through a Social Service Agency or Government Agency;
- (k) that the unit sub-meter provider may install a load control device at the consumer's premises in lieu of disconnection; and

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- (l) any additional option(s) that the unit sub-meter provider chooses, in its discretion, to offer to the consumer to avoid disconnection and the deadline for the consumer to avail himself or herself of such option(s).

4.2.5B A unit sub-meter provider that sends or delivers to a consumer a disconnection notice, pursuant to section 31(2) of the Electricity Act, for non-payment shall not include that notice in the same envelope as a bill or any other documentation emanating from the unit sub-meter provider.

4.2.5C A unit sub-meter provider shall, at the request of a residential consumer, send a copy of any disconnection notice issued to the consumer for non-payment to a third party designated by the consumer 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 4.2.6. In such a case:

- (a) the unit sub-meter provider shall notify the third party that the third party is not, unless otherwise agreed with the unit sub-meter provider, responsible for the payment of any charges for the provision of electricity service in relation to the consumer's property; and
- (b) the rules set out in sections 4.5.4 and 4.5.11 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.

4.2.5D A residential consumer may, at any time prior to disconnection, designate a third party to also receive any future notice of disconnection and the unit sub-meter provider shall send notice of disconnection to such third party.

4.2.5E A unit sub-meter provider shall accept electronic mail (e-mail) or telephone communications from the consumer for purposes of section 4.2.5D.

4.2.5F A 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 4.2.6, determined in accordance with the rules set out in section 4.5.11. A unit sub-meter provider may not thereafter disconnect the property of the consumer for non-payment unless the unit sub-meter provider issues a new disconnection notice in accordance with section 4.2.5A.

4.2.5G A unit sub-meter provider shall make reasonable efforts to contact, in person or by telephone, a residential consumer to whom the unit sub-meter provider has issued a disconnection notice for non-payment at least 48 hours prior to the scheduled date of disconnection. At that time, the unit sub-meter provider shall:

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- (a) advise the consumer of the scheduled date for disconnection;
- (b) advise the consumer that a disconnection may take place whether or not the consumer is at the premises;
- (c) where applicable, advise the consumer that the disconnection may occur without attendance at the consumer's premises;
- (d) advise the consumer of the forms of payment that the consumer may use to pay all amounts that are identified as overdue in the disconnection notice, including any method of payment that the unit sub-meter provider ordinarily accepts and which can be verified within the time period remaining before disconnection; and advise during what hours such payments may be made;
- (e) advise the consumer that a Board-prescribed standard arrears management program may be available to all residential consumers; the unit sub-meter provider must be prepared to enter into an arrears payment agreement at that time if the consumer is eligible under section 4.6;
- (f) advise that the following additional assistance may be available to an eligible low-income consumer, along with contact information for the unit sub-meter provider or distributor, as applicable, where the consumer can obtain further information about the additional assistance:
 - (i) a Board-prescribed arrears management program, and other expanded consumer service provisions, specifically for eligible low-income consumers; and
 - (ii) a Board-approved Emergency Financial Assistance program administered through a Social Service Agency or Government Agency; and
- (g) advise the consumer of any additional option(s) that the unit sub-meter provider, in its discretion, wishes to offer to the consumer to avoid disconnection.

4.2.5H A unit sub-meter provider shall suspend any disconnection action for a period of 21 days from the date of notification by a Social Service Agency or Government Agency that it is assessing a residential consumer for the purposes of determining whether the consumer is eligible to receive such assistance, provided such notification is made within 10 days from the date on which the disconnection notice is received by the consumer. Where a residential consumer had requested prior to the issuance of the disconnection notice that the unit sub-meter provider also provide a copy of any disconnection notice to a third party, the unit sub-meter provider shall suspend any disconnection action for a period of 21 days from the date of notification by the third party that he, she or it is attempting to arrange assistance with the

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bill payment, provided such notification is made within 10 days from the date on which the disconnection notice is received by the consumer.

4.2.5I Despite section 4.2.5H, upon notification by a Social Service Agency or Government Agency that a consumer is not eligible to receive such assistance, or if another third party who was considering the provision of bill assistance decides not to proceed, the unit sub-meter provider may continue its disconnection process. Unit sub-meter providers will have up to 11 days to act on the previous disconnection notice and must make a further reasonable effort to contact the consumer in accordance with section 4.2.5G prior to executing disconnection.

4.2.6 A unit sub-meter provider shall not disconnect a consumer for non-payment until the following minimum notice periods have elapsed.

- (a) 60 days from the date on which the disconnection notice is received by the consumer, in the case of a residential consumer that has provided the unit sub-meter provider with documentation from a physician confirming that disconnection poses a risk of significant adverse effects on the physical health of the consumer or on the physical health of the consumer's spouse, dependent family member or other person that regularly resides with the consumer; or
- (b) 10 days from the date on which the disconnection notice is received, in all other cases.

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4.2.6A For the purposes of section 4.2.6:

- (a) where a disconnection notice is sent by mail, the disconnection notice shall be deemed to have been received by the consumer on the third business day after the date on which the notice was printed by the unit sub-meter provider;
- (b) where a disconnection notice is delivered by personal service, the disconnection notice shall be deemed to have been received by the consumer on the date of delivery;
- (c) where a disconnection notice is delivered by being posted on the consumer's property, the disconnection notice shall be deemed to have been received by the consumer 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 consumer; and
- (f) the unit sub-meter provider shall apply the rules relating to the computation of time set out in section 4.5.11.

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- 4.2.7 A unit sub-meter provider may disconnect a consumer without notice in accordance with a court order or for emergency, safety or system reliability reasons.
- 4.2.8 A unit sub-meter provider may recover from consumer who is disconnected the reasonable costs associated with the disconnection, including overdue amounts payable by the consumer. A unit sub-meter provider may recover from the disconnected consumer the reasonable costs for repairs of the unit sub-meter provider's physical assets in reconnecting the consumer.
- 4.2.9 In establishing its disconnection policy, which will be set out in its Conditions of Service, a unit sub-meter provider may consider the following reasons for disconnection:
- (a) adverse effect on the reliability and safety of the unit sub-meter system or the exempt distributor's distribution system;
 - (b) imposition of an unsafe worker situation beyond normal risks inherent in the operation of the unit sub-meter system or the exempt distributor's distribution system;
 - (c) a material decrease in the efficiency of the unit sub-meter system or the exempt distributor's distribution system;
 - (d) a materially adverse effect on the quality of distribution services received by an existing connection;
 - (e) inability of the unit sub-meter provider to perform planned inspections and maintenance;
 - (f) failure of the consumer to comply with a directive of a unit sub-meter provider that the unit sub-meter provider makes for purposes of meeting its licence obligations; and
 - (g) the consumer owes the exempt distributor money for unit sub-metering services or for a security deposit. The unit sub-meter provider shall give the consumer a reasonable opportunity to provide the security deposit consistent with sections [4.1.11](#) and [4.1.11A](#).

4.3 Form of the Invoice

- 4.3.1 A unit sub-meter provider who is contracted to bill low-volume consumers on behalf of the master consumer shall comply with all applicable regulations regarding information on invoices to low-volume consumers of electricity.

4.4 Payment of the Master Bill

- 4.4.1 If the unit sub-meter provider has assumed responsibility for payment for the master bill, then the amount to be collected from consumers shall not include any penalties assessed by the licensed distributor on the master bill. Penalties

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include, but are not limited to, late payment charges and disconnect or reconnect charges.

4.5 Bill Issuance and Payment

4.5.1 A unit sub-meter provider shall include on each bill issued to a consumer the date on which the bill is printed.

4.5.2 Except as otherwise permitted by this Code, a unit sub-meter provider shall not treat a bill issued to a consumer 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 4.5.3 has elapsed.

4.5.3 For the purposes of section 4.5.2, the minimum payment period shall be 16 days from the date on which the bill was issued to the consumer.

A unit sub-meter provider may provide for longer minimum payment periods, provided that any such longer minimum payment periods are documented in the unit sub-meter provider's Conditions of Service.

4.5.4 For the purposes of section 4.5.3, a bill will be deemed to have been issued to a consumer:

- (a) if sent by mail, on the third day after the date on which the bill was printed by the unit sub-meter provider;
- (b) if made available over the internet, on the date on which an e-mail is sent to the consumer notifying the consumer 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.

4.5.5 A unit sub-meter provider shall apply the following rules for purposes of determining the date on which payment of a bill has been received from a consumer:

- (a) if paid by mail, three days prior to the date on which the unit sub-meter provider receives the payment;
- (b) if paid at a financial institution or electronically, on the date on which the payment is acknowledged or recorded by the consumer's financial institution; or
- (c) if credit card payment is accepted by the unit sub-meter provider, and if paid by credit card issued by a financial institution, on the date and at the time that the charge is accepted by the financial institution.

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- 4.5.6 Where a bill issued to a residential consumer includes charges for goods or services other than electricity charges, a unit sub-meter provider shall allocate any payment made by the consumer first to the electricity charges and then, if funds are remaining, to the charges for other goods or services.
- 4.5.7 Section 4.5.6 does not apply to existing joint billing agreements until the renewal date of such agreements or 2 years, whichever comes earlier, and thereafter the provisions of section 4.5.6 will be deemed applicable.
- 4.5.8 Where payment on account of a bill referred to in section 4.5.6 or 4.5.7 is sufficient to cover electricity charges, security deposits and billing adjustments, the unit sub-meter provider shall not impose late payment charges, issue a disconnection notice or disconnect electricity supply.
- 4.5.9 Subject to section 4.5.7, where payment on account of a bill referred to in section 4.5.6 or 4.5.7 is not sufficient to cover electricity charges, security deposits and billing adjustments, the unit sub-meter provider shall allocate the payments in the following order: electricity charges as defined in section 4.5.10, payments towards an arrears payment agreement, outstanding security deposit, under-billing adjustments and non-electricity charges.
- 4.5.10 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 prescribed by regulations under section 25.33 of the Electricity Act and all applicable taxes on those charges;
 - (c) unit sub-metering charges and charges for any associated and ancillary services, including charges for the provision and maintenance of unit sub-meters, late payment charges and other billing and collecting payment services in respect of the electricity consumed by the consumer, and all applicable taxes on those charges; and
 - (d) 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 consumer or as may be designated by the Board for the purposes of this section, but not including security deposits or amounts owed by a consumer pursuant to an arrears payment agreement or a billing adjustment.
- 4.5.11 For the purposes of section 4.5, a unit sub-meter provider shall apply the following rules relating to the computation of time:

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- (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 consumer, occurs on a day that is not a business day, it shall be deemed to have occurred on the next business day;
- (d) where an act, other than payment by a consumer, occurs after 5:00 p.m., it shall be deemed to have occurred on the next business day; and
- (e) receipt of a payment by a consumer is effective on the date that the payment is made, including payments made after 5:00 p.m.

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*.

4.6 Arrears Payment Agreements

4.6.1 A unit sub-meter provider shall make available to any residential electricity consumer who is unable to pay his or her outstanding electricity charges, as defined in section 4.5.10, the opportunity to enter into an arrears payment agreement with the unit sub-meter provider. The arrears payment agreement shall include, at a minimum, the terms and conditions specified in sections 4.6.3 - 4.6.16 inclusive.

4.6.2 If a unit sub-meter provider enters into discussions with a residential consumer and offers an arrears agreement but the consumer declines to enter into an arrears agreement, the unit sub-meter provider may proceed with disconnection and is not required to offer an arrears agreement to such a consumer after disconnection.

4.6.3 Before entering into an arrears payment agreement under section 4.6, a unit sub-meter provider shall apply any security deposit held on account of the consumer against any electricity charges owing at the time.

4.6.4 As part of the arrears payment agreement, a unit sub-meter provider may require that the consumer pay a down payment of up to 15% of the electricity charges arrears accumulated, inclusive of any applicable late payment charges, when entering into the arrears management program.

4.6.5 Where an eligible low-income consumer enters into an arrears payment agreement for the first time or subsequent to having successfully completed a previous arrears payment agreement as an eligible low-income consumer, a unit sub-meter provider may require that the consumer pay a down payment of up to

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10% of the electricity charge arrears accumulated, inclusive of late payment charges.

4.6.6 The arrears payment agreement referred to in section 4.6.1 shall allow the residential consumer to pay all remaining electricity charges that are then overdue for payment as well as the current bill amount if the consumer elects to do so, after applying a security deposit under section 4.6.3, and the down payment referred to in section 4.6.4, including all electricity-related service charges that have accrued to the date of the agreement, over the following periods:

- (a) a period of at least 5 months, where the total amount of the electricity charges remaining overdue for payment is less than twice the consumer's average monthly billing amount;
- (b) a period of at least 10 months, where the total amount of the electricity charges remaining overdue for payment is equal to or exceeds twice the consumer's average monthly billing amount;
- (c) in the case of an eligible low-income consumer, a period of at least 8 months, where the total amount of the electricity charges remaining overdue for payment is less than or equal to 2 times the consumer's average monthly billing amount;
- (d) in the case of an eligible low-income consumer, a period of at least 12 months where the total amount of the electricity charges remaining overdue for payment exceeds 2 times the consumer's average monthly billing amount and is less than or equal to 5 times the consumer's average monthly billing amount; or
- (e) in the case of an eligible low-income consumer, a period of at least 16 months where the total amount of the electricity charges remaining overdue for payment exceeds 5 times the consumer's average monthly billing amount.

4.6.7 For the purposes of section 4.6.6, the 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 a consumer of the unit sub-meter provider for less than 12 months, the consumer's average monthly billing amount shall be based on a reasonable estimate made by the unit sub-meter provider. For the purposes of this section, "electricity charges" has the same meaning as in section 4.5.10.

4.6.8 Despite section 4.6.6, a unit sub-meter provider shall not be required to offer an arrears payment agreement time period to a residential consumer that extends past the length of time that the residential consumer has an obligation to the master consumer.

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- 4.6.9 Where a residential consumer defaults on more than one occasion in making a payment in accordance with an arrears payment agreement, or a payment on account of a current electricity charge billing, a security deposit amount or an under-billing adjustment, the unit sub-meter provider may cancel the arrears payment agreement.
- 4.6.10 If the unit sub-meter provider cancels an arrears payment agreement pursuant to section 4.6.9, the unit sub-meter provider will give written notice of cancellation to the consumer and to any third party designated by the consumer under section 4.6.11 at least 10 days before the effective date of the cancellation.
- 4.6.11 Where, at the time of entering into an arrears payment agreement a consumer has designated a third party to receive notice of cancellation of the arrears payment agreement, the unit sub-meter provider shall provide notice of cancellation to such third party.
- 4.6.12 A unit sub-meter provider shall accept electronic mail (e-mail) or telephone communications from the consumer for purposes of section 4.6.11.
- 4.6.13 If the consumer makes payment of all amounts due pursuant to the arrears payment agreement as of the cancellation date referred to in section 4.6.10 and makes such payment on or before the cancellation date, the unit sub-meter provider shall reinstate the arrears payment agreement.
- 4.6.14 Where an eligible low-income consumer defaults on more than two occasions in making a payment in accordance with an arrears payment agreement, or a payment on account of a current electricity charge billing or an under-billing adjustment, the unit sub-meter provider may cancel the arrears payment agreement.
- 4.6.15 For purposes of sections 4.6.9 and 4.6.14, the defaults must occur over a period of at least 2 months before the unit sub-meter provider may cancel the arrears payment agreement.
- 4.6.16 A unit sub-meter provider shall make available to a residential electricity consumer a second arrears payment agreement if the consumer so requests, provided that 2 years or more has passed since a first arrears payment agreement was entered into and provided that the consumer performed his or her obligations under the first arrears payment agreement.
- 4.6.17 In the case of an eligible low-income consumer, the unit sub-meter provider shall allow such a consumer to enter into a subsequent arrears payment agreement upon successful completion of the previous arrears payment agreement on the following terms:

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- (a) if a second or subsequent arrears agreement is requested less than 12 months from the date of completion of the previous arrears payment agreement, then the standard arrears payment agreement terms applicable to all residential consumers under sections 4.6.1 to 4.6.10 also apply to the eligible low-income consumer; or
- (b) if a second or subsequent arrears agreement is requested 12 months or more from the date of completion of the previous arrears payment agreement, the eligible low-income consumer shall be entitled to the arrears payment agreement terms set out in sections 4.6.5, 4.6.6(c), 4.6.6(d), 4.6.6(e), 4.6.14, and 4.6.15.

4.6.18 The unit sub-meter provider shall not disconnect the property of a residential consumer, for failing to make a payment subject to an arrears payment agreement, unless the consumer is in default, according to sections 4.6.9, 4.6.14 and 4.6.15, and the unit sub-meter provider has cancelled the arrears payment agreement in accordance with the provisions of this Code.

4.6.19 In the event a residential electricity consumer failed to perform his or her obligations under a previous arrears payment agreement and the unit sub-meter provider terminated the agreement pursuant to section 4.6.9, the unit sub-meter provider may require that the consumer wait 1 year after termination of the previous agreement before entering into another arrears payment agreement with the unit sub-meter provider.

4.7 Opening and Closing of Accounts

4.7.1 Where a unit sub-meter provider opens an account for a property in the name of a person at the request of a third party, the unit sub-meter provider shall within 15 days of the opening of the account send a letter to the person advising of the opening of the account and requesting that the person confirm that he or she agrees to be the named consumer. If the unit sub-meter provider does not receive confirmation from the intended consumer, within 15 days of the date of the letter, the unit sub-meter provider shall advise the third party that the account will not be set up as requested.

4.7.2 The unit sub-meter provider is not required to send a letter advising of the opening of the account where the request to open the account is made in writing by the person's solicitor or person in possession of a valid Power of Attorney for the person.

4.7.3 Despite any other provision of this Code, with the exception of the parties mentioned in section 4.7.2, where a unit sub-meter provider has opened an account for a property in the name of a person at the request of a third party, the unit sub-meter provider shall not seek to recover from that person any charges

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for service provided to the property unless the person has agreed to be the consumer of the unit sub-meter provider in relation to the property.

4.7.4 Despite any other provision of this Code, with the exception of the parties mentioned in section 4.7.2, where a unit sub-meter provider receives a request to close or transfer 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 unit sub-meter provider 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 to assume responsibility for those charges.

4.8 Use of Load Control Devices

4.8.1 A unit sub-meter provider may install a load control device instead of disconnecting supply to a consumer for non-payment, provided that the unit sub-meter provider complies with the provisions set out in sections 4.8.4, 4.8.5, 4.8.6, 4.8.7, 4.8.8, 4.8.9, and 4.8.11.

4.8.2 Where a consumer voluntarily requests the installation or continued use of a load limiter device, the unit sub-meter provider shall install a load limiter device provided the unit sub-meter provider ordinarily provides such a service.

4.8.3 Where a unit sub-meter provider is notified by a Social Service Agency or Government Agency that the agency is assessing the consumer for Emergency Financial Assistance, the unit sub-meter provider shall refrain from installing a load control device for a period of 21 days after receiving such notification.

4.8.4 When the unit sub-meter provider installs a load limiter device, either for non-payment or at the consumer's request, it shall also deliver a written notice to the consumer explaining in plain language the operation of the device, the maximum capacity of the device, how to reset the device if the maximum capacity is exceeded, as well as a telephone number for the consumer to obtain further information and an emergency telephone number to contact if the capacity is exceeded and the consumer cannot manually reset the device for any reason.

4.8.5 When the unit sub-meter provider installs a load limiter device for non-payment that cannot be manually reset by the consumer after the maximum limit is triggered, then the unit sub-meter provider must provide a 24-hour telephone number the consumer may call to have the load limiter device remotely reset.

4.8.6 When the unit sub-meter provider installs a timed load interrupter for non-payment, it shall also deliver a written notice to the consumer explaining in plain

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language the effect of the device on service and a telephone number for the consumer to obtain further information.

4.8.7 When a unit sub-meter provider installs a load control device for non-payment, the unit sub-meter provider shall also provide to the consumer:

- (a) the Fire Safety Notice of the Office of the Fire Marshal; and
- (b) any other public safety notices or information bulletins issued by public safety authorities and provided to the unit sub-meter provider, which provide information to consumers respecting dangers associated with the disconnection of electricity service.

4.8.8 A load control device may not be installed at a residential consumer's property during the course of an arrears payment agreement, unless the agreement has been terminated in accordance with the provisions of this Code.

4.8.9 Where a unit sub-meter provider had previously installed a load control device for non-payment and the residential consumer then enters into an arrears payment agreement, the unit sub-meter provider shall remove the device within 2 business days of the consumer entering into an arrears payment agreement.

4.8.10 Despite sections 4.8.8 and 4.8.9, a consumer may request the installation or continued use of the load limiter device during the course of the arrears payment agreement where the unit sub-meter provider ordinarily provides such a service.

4.8.11 Subject to section 4.8.9, where a load control device was installed by a unit sub-meter provider for non-payment, the unit sub-meter provider shall remove the load control device within 2 business days of an outstanding account being paid in full.

4.9 Billing Errors

4.9.1 The following rules apply to billing errors in respect of which Measurement Canada has not become involved in the dispute.

4.9.2 Where a unit sub-meter provider has over billed a consumer by an amount that is equal or exceeds the consumer's average monthly billing amount, determined in accordance with section 4.6.7, the unit sub-meter provider shall, within 10 days of determination of the error, notify the consumer of the over billing and advise that the consumer may elect to have the full amount credited to their account or repaid in full by cheque, within 11 days of requesting payment by cheque. Where the consumer has not requested payment by cheque within 10 days of notification of the error by the unit sub-meter provider, the unit sub-meter provider may credit the full amount to the account.

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- 4.9.3 Where a unit sub-meter provider has over billed a consumer by an amount that is less than the consumer's average monthly billing amount, determined in accordance with section 4.6.7, the unit sub-meter provider shall credit the account in the next regularly scheduled bill issued to the consumer.
- 4.9.4 If there are outstanding arrears on the consumer's account, the unit sub-meter provider is not required to repay the over-billed amount but may apply it to the arrears on the consumer's account and credit or repay to the consumer the remaining balance.
- 4.9.5 Where a unit sub-meter provider has under billed a consumer who is not responsible for the error, the unit sub-meter provider shall allow the consumer to pay the under-billed amount in equal installments over a period at least equal to the duration of the billing error, up to a maximum of 2 years.
- 4.9.6 Where a unit sub-meter provider issues a bill to a consumer for an under-billed amount, the unit sub-meter provider shall notify the consumer that, if the consumer is an eligible low-income consumer, he or she has the option of paying the under-billed amount as follows:
- a) in accordance with section 4.9.5; or
 - b) over a period of 10 months where the under-billed amount is less than twice the consumer's average monthly billing and over a period of 20 months where the under-billed amount equals or exceeds twice the consumer's average monthly billing.
- 4.9.7 For the purposes of section 4.9.6, the unit sub-meter provider may notify the consumer by way of bill insert, bill message, letter or outgoing telephone message.
- 4.9.8 Where a unit sub-meter provider has under billed a consumer who is responsible for the error, whether by way of tampering, willful damage, unauthorized energy use or other unlawful actions, the unit sub-meter provider 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 or on a separate bill to be issued to the consumer responsible for the error. Where disconnection has occurred, the unit sub-meter provider may require payment of such bill prior to the reconnection of service upon request by the consumer responsible for the tampering, willful damage, unauthorized energy use or other unlawful actions that caused the under billing.
- 4.9.9 Where the unit sub-meter provider has under billed a consumer, the maximum period of under billing for which the unit sub-meter provider is entitled to be paid is 2 years. Where the unit sub-meter provider has over billed a consumer, the

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maximum period of over billing for which the consumer is entitled to be repaid is 2 years.

4.9.10 A unit sub-meter provider 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 other unlawful actions. Such interest shall be equal to the prime rate charged by the unit sub-meter provider's bank.

4.9.11 A unit sub-meter provider that has over billed a consumer and the billing error is not the result of a unit sub-meter provider's standard documented billing practices, shall pay interest on the amount credited or repaid to the consumer equal to the prime rate charged by the unit sub-meter provider's bank.

4.9.12 The unit sub-meter provider is responsible for advising the consumer of any meter error and of his, her or its rights and obligations under the *Electricity and Gas Inspection Act* (Canada). The unit sub-meter provider is also responsible for subsequently settling actual payment differences with the consumer as described above.

4.9.13 The provisions of section 4.9 do not apply where the unit sub-meter provider has over billed or under billed a consumer but issues a corrected bill within 16 days of the issue date of the original erroneous bill.

4.9.14 Despite sections 4.9.5 and 4.9.6, a unit sub-meter provider shall not be required to allow a consumer to repay an under-billed amount over a time period that extends past the length of time that the consumer has an obligation to the master consumer.

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