

Attachment E

to

Notice of Proposed Amendments to Codes and a Rule and Notice of Hearing

December 18, 2018

EB-2017-0183

**Proposed Amendments to the
Gas Distribution Access Rule**

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

1. Section 1.1.1 of the Gas Distribution Access Rule is amended by deleting the word “and” after the second bullet point and adding the following two bullet points at the end of the section:
 - *establish customer service rules for rate-regulated gas distributors; and*
 - *establish a consumer complaint response process for rate-regulated gas distributors*

2. Section 1.2.1 of the Gas Distribution Access Rule is amended by adding the following definitions, in alphabetical order:

“business day” means any day other than a Saturday or a holiday;

“disconnect/collect trip” means a visit to a consumer’s premises by an employee or agent of the gas distributor to demand payment of an outstanding amount or to shut off distribution of gas to the consumer for non-payment;

“holiday” means a holiday described in section 88 of the Legislation Act, 2006, S.O. 2006, c. 21, Sched. F as well as the August Civic Holiday;

3. The heading of section 8 of the Gas Distribution Access Rule is amended by replacing the words “Standards and Practices” with the word “Policy”.
4. Section 8.1.12 of the Gas Distribution Access Rule is amended by deleting the word “and” after paragraph (g), adding the word “and” after paragraph (h), and adding the following new paragraph (i) at the end of the section:

(i) late payments, including the date from which any Board-approved late

payment charges apply.

5. Sections 8.2.2, 8.3.2, 8.3.3, 8.3.4, 8.3.5, and 8.4.2 of the Gas Distribution Access Rule are revoked.
6. The Gas Distribution Access Rule is amended by adding the following sections 9 and 10 after section 8:

9. CUSTOMER SERVICE RULES

9.1 General

9.1.1 This section 9 applies only to rate-regulated gas distributors, and only in respect of low volume consumers.

9.2 Security Deposits

9.2.1 A gas distributor shall ensure that its Customer Service Policy include the gas distributor's security deposit policy which shall be consistent with the provisions of this Rule. A gas distributor'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 the security deposit waived and/or returned; and*
- (f) methods of enforcement where a security deposit is not paid.*

9.2.2 In managing consumers' non-payment risk, a gas distributor shall not discriminate among consumers with similar risk profiles or risk related factors except where expressly permitted under this Rule.

9.2.3 A gas distributor may require a security deposit from a consumer who is not billed by a competitive gas vendor under gas vendor-consolidated billing unless the consumer has a good payment history of one year in the case of a residential consumer, three 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 gas distributor shall provide a consumer with the specific reasons for requiring a security deposit from the consumer.

9.2.4 Before requiring a security deposit under section 9.2.3 from a new residential consumer, a gas distributor shall offer the consumer the option of enrolling in an equal

monthly billing plan, a pre-authorized payment plan, or both, and where the consumer elects to enroll, no security deposit shall be required.

9.2.5 Despite section 9.2.4, a gas distributor may require a security deposit from the consumer if within 12 months of enrollment in an equal monthly billing plan, a pre-authorized payment plan, or both,

(a) the consumer terminates the plan;

(b) the consumer receives more than one disconnection notice from the gas distributor;

(c) more than one payment by the consumer has been returned for insufficient funds;

(d) a disconnect/collect trip has occurred; or

(e) in the case of an equal monthly billing plan, the plan has been cancelled due to non-payment by the consumer.

9.2.6 Section 9.2.5 does not apply if any of the events listed in paragraphs (b) to (e) of that section occurred due to an error by the gas distributor.

9.2.7 For the purposes of section 9.2.3, a consumer is deemed to have a good payment history unless, during the relevant time period set out in section 9.2.3, the consumer has received more than one disconnection notice from the gas distributor, more than one cheque given to the gas distributor has been returned for insufficient funds, more than one pre-authorized payment to the gas distributor has been returned for insufficient funds, a disconnect/collect trip has occurred or the gas distributor had to apply a security deposit in accordance with section 9.2.32 and required the consumer to repay the security deposit in accordance with section 9.2.33. If any of the preceding events occur due to an error by the gas distributor, the consumer's good payment history shall not be affected.

9.2.8 Despite section 9.2.3, a gas distributor shall not require a security deposit where:

(a) a consumer provides a letter from another gas distributor or electricity distributor in Canada confirming a good payment history with that distributor for the most recent relevant time period set out in section 9.2.3 where some of the time period which makes up the good payment history has occurred in the previous 24 months;

(b) a consumer provides a satisfactory credit check made at the consumer's expense; or

(c) an eligible low-income customer has requested a waiver under section 9.2.9.

9.2.9 When issuing a bill for a security deposit in accordance with section 9.2.3, the gas distributor shall advise a residential consumer that the security deposit requirement will be waived for an eligible low-income customer upon request. The gas distributor shall notify the consumer by means of a bill insert, bill message, letter or outgoing telephone message and shall include the gas distributor's contact information where the consumer

can obtain further information and a referral to a LEAP Intake Agency to review the consumer's low-income eligibility.

9.2.10 Where a gas distributor is advised by a LEAP Intake Agency that the agency is assessing the consumer for eligibility as a low-income customer, the due date for payment of the security deposit shall be extended for at least 21 days pending the eligibility decision of the LEAP Intake Agency.

9.2.11 The maximum amount of a security deposit which a gas distributor may require a consumer to pay shall be calculated by multiplying the gas distributor's billing cycle factor and the consumer's estimated bill (which shall be based on the consumer's average monthly load with the gas distributor 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 gas distributor does not have systems capable of making the above calculation, the consumer's average monthly load shall be based on a reasonable estimate made by the gas distributor.

9.2.12 Subject to section 9.2.2, a gas distributor may in 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.

9.2.13 For the purposes of section 9.2.11, 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.

9.2.14 Where a consumer, other than a residential consumer, has a payment history which discloses more than one disconnection notice in a relevant 12 month period, the gas distributor 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 9.2.11.

9.2.15 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 gas distributor.

9.2.16 The form of payment of a security deposit for a non-residential low volume 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 gas distributor may also accept other forms of security such as surety bonds and third party guarantees.

9.2.17 A gas distributor shall permit the non-residential low volume consumer to provide a security deposit in equal installments paid over at least four months. A non-residential low volume consumer may, in its discretion, choose to pay the security deposit over a shorter time period.

9.2.18 Despite section 9.2.17, a gas distributor shall permit a residential consumer to provide a security deposit in equal installments paid over a period of at least six months, including where a new security deposit is required due to the gas distributor having applied the existing security deposit against amounts owing under section 9.2.28. A consumer may elect to pay the security deposit over a shorter period of time.

9.2.19 Interest shall accrue monthly on security deposits made by way of cash or cheque commencing on receipt of the total deposit required by the gas distributor. The interest rate shall be at the average over the period of the prime business rate set by the Bank of Canada less two percent. The interest accrued shall be paid out at least once every 12 months or on return 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.

9.2.20 A gas distributor 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 9.2.3 or 9.2.8 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 9.2.11.

9.2.21 For the purposes of section 9.2.20, where a residential consumer has paid a security deposit in installments, a gas distributor 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 Rule.

9.2.22 A gas distributor shall 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 the gas distributor 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 9.2.3 or 9.2.8 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 9.2.11.

9.2.23 For the purposes of section 9.2.19, 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.

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

9.2.25 *Where an eligible low-income customer requests a refund of a security deposit previously paid to a gas distributor by the customer, the gas distributor shall advise the customer 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 equal to or greater than one month's average billing or, where the remaining amount is equal to or greater than one month's average billing, the customer may elect to receive the refund by cheque and the gas distributor shall issue a cheque within 11 days of the customer requesting payment by cheque.*

9.2.26 *Where the gas distributor determines in conducting a review under section 9.2.20 or 9.2.22 that some or all of the security deposit is to be returned to the consumer, the gas distributor shall promptly return this amount to the consumer by crediting the consumer's account or otherwise. Despite section 9.2.17, where the gas distributor determines in conducting a review under section 9.2.20 or 9.2.22 that the maximum amount of the security deposit is to be adjusted upward, the gas distributor may require the consumer to pay this additional amount at the same time as that consumer's next regular bill comes due.*

9.2.27 *Despite section 9.2.23, where a residential consumer is required to adjust the security deposit upwards, a gas distributor shall permit the consumer to pay the adjustment amount in equal installments paid over a period of at least six months. A consumer may elect to pay the security deposit over a shorter period of time.*

9.2.28 *Within six weeks of the closure of a consumer's account, a gas distributor shall return any security deposit that was received from the consumer, subject to the gas distributor's right to use the security deposit to set off other amounts owing by the consumer to the distributor.*

9.2.29 *Despite sections 9.2.20, 9.2.22, 9.2.26, 9.2.28, and 9.2.32, where all or part of a security deposit has been paid by a third party on behalf of a consumer, the gas distributor shall return the amount of the security 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 gas distributor;*
- (b) the third party has requested, at the time the security deposit was paid or within a reasonable time thereafter, that the gas distributor 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 gas distributor is permitted by this Rule to offset using the security deposit.*

9.2.30 *A gas distributor shall not issue a disconnection notice to a residential consumer for non-payment unless the gas distributor 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.

9.2.31 Where a gas distributor applies all or part of a security deposit to offset amounts owing by a residential consumer under section 9.2.30, the gas distributor may request that the consumer repay the amount of the security deposit that was so applied. The gas distributor shall allow the residential consumer to repay the security deposit in installments in accordance with section 9.2.30.

9.2.32 A gas distributor shall apply a security deposit to the final bill prior to the change in service where a consumer changes from system gas to a competitive gas vendor that uses gas vendor-consolidated billing or a consumer changes billing options from gas distributor-consolidated billing to split billing or gas vendor-consolidated billing. A gas distributor shall promptly return any remaining amount of the security deposit to the consumer. A gas distributor shall not pay any portion of a consumer's security deposit to a gas vendor. Where a change is made from gas distributor-consolidated billing to split billing, a gas distributor may retain a portion of the security deposit amount that reflects the non-payment risk associated with the new billing option.

9.3 Bill Issuance and Payment

9.3.1 A gas distributor shall include on each bill issued to a consumer the date on which the bill is printed.

9.3.2 Except as otherwise permitted by this Rule, a gas distributor 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 9.3.3 has elapsed.

9.3.3 For the purposes of section 9.3.2, the minimum payment period shall be 20 days from the date on which the bill was issued to the consumer. A gas distributor may provide for longer minimum payment periods, provided that any such longer minimum payment periods are documented in the gas distributor's Customer Service Policy.

9.3.4 For the purposes of section 9.3.3, 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 gas distributor;*
- (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.*

9.3.5 A gas distributor 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 gas distributor 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 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.

9.3.6 Where a bill issued to a residential consumer includes charges for goods or services other than gas, a gas distributor shall allocate any payment made by the consumer first to the gas charges and then, if funds are remaining, to the charges for other goods or services.

9.3.7 Where payment on account of a bill referred to in section 9.3.6 is sufficient to cover gas charges, security deposits and billing adjustments, the gas distributor shall not impose late payment charges, issue a disconnection notice or disconnect gas supply.

9.3.8 Where payment on account of a bill referred to in section 9.3.6 is not sufficient to cover gas charges, security deposits and billing adjustments, the gas distributor shall allocate the payments in the following order: gas charges, payments towards an arrears payment agreement, outstanding security deposit, under-billing adjustments and non-gas charges.

9.3.9 Despite sections 9.3.6 and 9.3.8, where a residential consumer requests that a payment be allocated in a manner other than that specified in those sections, the gas distributor may, but is not required to, allocate the payment in the manner requested.

9.3.10 For the purposes of this section 9.3, a gas distributor shall apply the following rules relating to the computation of time:

- (a) where there is reference to a number of days between two events, the days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens;
- (b) where the time for doing an act expires on a day that is not a business day, the act may be done on the next day that is a business day;
- (c) where an act, other than payment by a 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.

9.4 Equal Monthly Billing Plan

9.4.1 A gas distributor shall offer to all low volume consumers receiving system gas equal monthly billing plan option that meets the following minimum requirements:

- (a) a gas distributor may only refuse to provide an equal monthly billing plan option to a residential consumer that is in arrears on payment to the gas distributor for gas charges and that has not entered into an arrears payment agreement with the gas distributor;
- (b) a gas distributor may only refuse an equal monthly billing plan option to a non-residential low volume consumer:
 - i) who has fewer than 12 months' billing history;
 - ii) is in arrears on payment to the gas distributor for gas charges or whose participation in the equal monthly billing plan in the past 12 months was cancelled due to non-payment; or
 - iii) whose consumption pattern is not sufficiently predictable to be estimated on an annual basis with any reasonable degree of accuracy;
- (c) a gas distributor shall offer an equal monthly billing plan to eligible consumers at least twice in each 12 month period through the consumer's preferred method of communication, if known, or otherwise by mail;
- (d) a gas distributor shall offer to a residential consumer requesting an equal monthly billing plan a pre-authorized automatic monthly payment option whereby amounts due each month are automatically withdrawn from the consumer's account with a financial institution;
- (e) a gas distributor may cancel the equal monthly billing plan if the consumer misses more than one monthly payment under the equal monthly billing plan within an equal billing year;
- (f) subject to paragraph (e), the equal monthly billing plan shall provide for annual reconciliation of the plan as follows:
 - i) while a consumer may join an equal monthly billing plan at any time during the calendar year, the gas distributor is only required to reconcile all of its equal monthly billing plans once during the calendar year and not on the 12th month anniversary since each individual consumer joined the plan;
 - ii) in the first year of an equal monthly billing plan and where the consumer has been on the plan for less than 12 months, the consumer may receive a reconciliation earlier than the 12th month anniversary, as a result of sub-paragraph i);
 - iii) while a gas distributor is only required to reconcile equal monthly billing plans on an annual basis, a gas distributor shall review its equal monthly billing plans quarterly or semi-annually and adjust the equal monthly billing

- amounts in the event of material changes in a consumer's gas consumption or a consumer's gas charges;
- iv) despite subparagraph iii), a gas distributor may adjust the equal monthly billing amounts at any time in the event of extraordinary changes in a consumer's gas consumption or a consumer's gas charges or for any other reason with the consumer's consent;
 - v) where the annual reconciliation demonstrates that funds are owing to the consumer in an amount that is less than the consumer's average monthly billing amount, the gas distributor shall credit the amount to the consumer's account;
 - vi) where the annual reconciliation demonstrates that funds are owing to the consumer in an amount that is equal to or exceeds the consumer's average monthly billing amount, the gas distributor shall credit the amount to the consumer's account and advise the consumer that the consumer may contact the gas distributor within 10 days of the date of the bill to request a refund of the overpayment by cheque instead and the gas distributor shall make payment within 11 days of the consumer's request;
 - vii) where the annual reconciliation demonstrates that funds are owing by the consumer in an amount that is equal to or exceeds the consumer's average monthly billing, the gas distributor shall roll over the balance due to the following year's equal monthly billing plan and recover the balance over the first 11 months of the following year's equal monthly billing plan;
 - viii) where a consumer leaves the equal monthly billing plan for any reason, the gas distributor shall conduct a reconciliation and shall include any funds owing by or to the consumer as a charge or credit on the next regularly scheduled bill issued to the consumer.

9.4.2 For the purposes of section 9.4.1:

- (a) A consumer's average monthly billing amount shall be calculated by taking the aggregate of the total gas charges billed to the consumer in the preceding 12 months, and dividing that value by 12. If the consumer has been receiving service from the gas distributor for less than 12 months, the consumer's average monthly billing amount shall be based on a reasonable estimate made by the gas distributor.
- (b) Despite paragraph (a), the gas distributor may adjust the average monthly billing amount calculated under that paragraph upward or downward if, in the gas distributor's reasonable opinion (based on, for example, a Board-approved rate change, or an estimate provided by the consumer), the amount calculated is likely to be materially different than the consumer's actual average monthly billing amount over the next 12 months.

9.5 Arrears Payment Agreements

9.5.1 A gas distributor shall make available to any low volume consumer who is unable to pay their outstanding gas charges the opportunity to enter into an arrears payment agreement with the gas distributor. In respect of residential consumers, the arrears payment agreement shall include, at a minimum, the terms and conditions specified in sections 9.5.3 to 9.5.16 inclusive. In respect of non-residential low volume consumers, an arrears payment agreement need not include those terms and conditions, but shall be offered on reasonable terms.

9.5.2 If a gas distributor enters into discussions with a residential consumer and offers an arrears agreement but the consumer declines to enter into an arrears agreement, the gas distributor may proceed with disconnection and is not required to offer an arrears agreement to such a consumer after disconnection.

9.5.3 Before entering into an arrears payment agreement with a residential consumer under this section 9.5, a gas distributor shall apply any security deposit held on account of the consumer against any gas charges owing at the time.

9.5.4 As part of the arrears payment agreement, a gas distributor may require that the consumer pay a down payment of up to 15% of the gas charges arrears accumulated, inclusive of any applicable late payment charges but excluding other service charges, when entering into the arrears management program.

9.5.5 Where an eligible low-income customer 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 customer, a gas distributor may require that the consumer pay a down payment of up to 10% of the gas charges arrears accumulated, inclusive of late payment charges.

9.5.6 The arrears payment agreement referred to in section 9.5.1 shall allow the residential consumer to pay all remaining gas 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 9.5.3, and the down payment referred to in section 9.5.4, including all gas-related service charges that have accrued to the date of the agreement, over the following periods:

- (a) a period of at least five months, where the total amount of the gas charges remaining overdue for payment is less than twice the residential consumer's average monthly billing amount;*
- (b) a period of at least 10 months, where the total amount of the gas charges remaining overdue for payment is equal to or exceeds twice the residential consumer's average monthly billing amount;*
- (c) in the case of an eligible low-income customer, a period of at least eight months, where the total amount of the gas charges remaining overdue for payment*

exceeds two times the eligible low-income customer's average monthly billing amount;

- (d) in the case of an eligible low-income customer, a period of at least 12 months where the total amount of the gas charges remaining overdue for payment exceeds two times the consumer's average monthly billing amount and is less than or equal to five times the consumer's average monthly billing amount; or*
- (e) in the case of an eligible low-income customer, a period of at least 16 months where the total amount of the gas charges remaining overdue for payment exceeds five times the eligible low-income customer's average monthly billing amount.*

9.5.7 For the purposes of section 9.5.6, the consumer's average monthly billing amount shall be calculated by taking the aggregate of the total gas charges billed to the consumer in the preceding 12 months and dividing that value by 12. If the consumer has been a customer of the gas distributor for less than 12 months, the consumer's average monthly billing amount shall be based on a reasonable estimate made by the gas distributor.

9.5.8 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 gas charge billing, a security deposit amount or an under-billing adjustment, the gas distributor may cancel the arrears payment agreement.

9.5.9 If the gas distributor cancels an arrears payment agreement pursuant to section 9.5.8, the gas distributor will give written notice of cancellation to the consumer and to any third party designated by the consumer under section 9.5.10 at least 10 days before the effective date of the cancellation.

9.5.10 Where, at the time of entering into an arrears payment agreement a residential consumer has designated a third party to receive notice of cancellation of the arrears payment agreement, the gas distributor shall provide notice of cancellation to such third party.

9.5.11 A gas distributor shall accept electronic mail (e-mail) or telephone communications from the residential consumer for the purposes of section 9.5.10.

9.5.12 If the residential consumer makes payment of all amounts due pursuant to the arrears payment agreement as of the cancellation date referred to in section 9.5.9 and makes such payment on or before the cancellation date, the gas distributor shall reinstate the arrears payment agreement.

9.5.13 Where an eligible low-income customer 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 gas charge billing or an under-billing adjustment, the gas distributor may cancel the arrears payment agreement.

9.5.14 For the purposes of sections 9.5.8 and 9.5.13, the defaults must occur over a period of at least two months before the gas distributor may cancel the arrears payment agreement.

9.5.15 A gas distributor shall make available to a residential gas consumer a second arrears payment agreement if the consumer so requests, provided that two years or more have 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.

9.5.16 The gas distributor is not required to waive any Board-approved late payment charges that accrue to the date of the arrears payment agreement but no further late payment charges may be imposed on a residential consumer after he or she has entered into an arrears payment agreement with the gas distributor in respect of the amount that is the subject of that agreement.

9.5.17 In the case of an eligible low-income customer, the gas distributor shall allow such a customer 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 payment 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 9.5.1 to 9.5.9 also apply to the eligible low-income customer; or
- (b) if a second or subsequent arrears payment agreement is requested 12 months or more from the date of completion of the previous arrears payment agreement, the eligible low-income customer shall be entitled to the arrears payment agreement terms set out in sections 9.5.5, 9.5.6(c), 9.5.6(d), 9.5.6(e), 9.5.14, and 9.5.14.

9.5.18 The gas distributor 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 9.5.8, 9.5.13 and 9.5.14, and the gas distributor has cancelled the arrears payment agreement in accordance with the provisions of this Rule.

9.5.19 In the event a consumer failed to perform their obligations under a previous arrears payment agreement and the gas distributor terminated the agreement pursuant to section 9.5.8 (in the case of a residential consumer) or otherwise (in the case of a non-residential low volume consumer), the gas distributor may require that the consumer wait one year after termination of the previous agreement before entering into another arrears payment agreement with the gas distributor.

9.8 Disconnection and Reconnection

9.8.1 A gas distributor shall establish a process for disconnection and reconnection that specifies timing and means of notification consistent with this Rule. In developing physical and business practices for reconnection, a gas distributor shall consider safety and reliability as a primary requirement. A gas distributor shall document its business process for disconnection in respect of residential consumers in its Customer Service Policy.

9.8.2 A gas distributor that intends to disconnect, pursuant to section 59 of the Public Utilities Act, R.S.O. 1990, c. P.52, 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 gas distributor;*
- (b) the earliest and latest dates on which disconnection may occur, in accordance with sections 9.8.12 and 9.8.7;*
- (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 approved service charge(s) that may apply to reconnect service following disconnection, 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, which must at least include payment by credit card issued by a financial institution as described in section 4.2.4 and any other method of payment that the gas distributor 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 gas distributor;*
- (g) that, in order to avoid disconnection if the gas distributor attends at the consumer's property to execute the disconnection, a consumer will only be able to pay by credit card issued by a financial institution, unless the gas distributor, in its discretion, will accept other forms of payment at that time and sets out the other forms of payment in the disconnection notice;*
- (h) that a disconnection may take place whether or not the consumer is at the premises (provided, however, that this information need not be included if the gas distributor does not in fact disconnect service when the consumer is not at the premises));*
- (i) that a Vital Services By-Law may exist in the consumer's community and that the consumer should contact their local municipality for more information (provided,*

however, that this information need not be included if in fact such a by-law does not exist);

- (j) that a Board-prescribed standard arrears management program and equal monthly billing plan option may be available to all residential consumers, along with contact information for the gas distributor where the consumer can obtain further information;
- (k) that the following additional assistance may be available to an eligible low-income customer, along with contact information for the gas distributor where the customer can obtain further information about the additional assistance:
 - i. Board-prescribed arrears management program, and other expanded customer service provisions, specifically for eligible low-income customers; and
 - ii. Emergency Financial Assistance; and
- (l) any additional option(s) that the gas distributor 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).

9.8.3 A gas distributor that sends or delivers to a consumer a disconnection notice for non-payment shall not include that notice in the same envelope as a bill or any other documentation emanating from the gas distributor.

9.8.4 A gas distributor 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 9.8.12. In such a case:

- (a) the gas distributor shall notify the third party that the third party is not, unless otherwise agreed with the gas distributor, responsible for the payment of any charges for the provision of gas service in relation to the consumer's property; and
- (b) the rules set out in sections 9.3.4 and 9.3.10 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.

9.8.5 A residential consumer may, at any time prior to disconnection, designate a third party to also receive any future notice of disconnection and the gas distributor shall send notice of disconnection to such third party.

9.8.6 A gas distributor shall accept electronic mail (e-mail) or telephone communications from the consumer for purposes of section 9.8.5.

9.8.7 A disconnection notice issued for non-payment shall expire on the date that is 14 days from the last day of the applicable minimum notice period referred to in section 9.8.12, determined in accordance with the rules set out in section 9.3.10. A gas distributor may not thereafter disconnect the property of the consumer for non-payment unless the gas distributor issues a new disconnection notice in accordance with section 9.8.2.

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

- (a) advise the consumer of the scheduled date for disconnection;
- (b) if applicable, advise the consumer that a disconnection may take place whether or not the consumer is at the premises;
- (c) advise that the consumer has the option to pay amounts owing by credit card issued by a financial institution, in addition to other forms of payment that the gas distributor will accept at that time and which can be verified within the time period remaining before disconnection; and advise during what hours such payments may be made;
- (d) advise the consumer that, if the gas distributor attends at the consumer's property to execute the disconnection, the consumer will only be able to pay by credit card issued by a financial institution, unless the gas distributor, in its discretion, will accept other forms of payment at that time;
- (e) advise the consumer that a Board-prescribed standard arrears management program and equal monthly billing plan option may be available to all residential consumers; the gas distributor must be prepared to enter into an arrears payment agreement at that time if the consumer is eligible under section 9.5;
- (f) advise that the following additional assistance may be available to an eligible low-income customer, along with contact information for the gas distributor where the customer can obtain further information about the additional assistance:
 - i) a Board-prescribed arrears management program, and other expanded customer service provisions, specifically for eligible low-income customers; and
 - ii) Emergency Financial Assistance; and
- (g) advise the consumer of any additional option(s) that the gas distributor, in its discretion, wishes to offer to the consumer to avoid disconnection.

9.8.9 Where a gas distributor issues a disconnection notice for non-payment in respect of the disconnection of a multi-unit, master-metered building, the gas distributor shall

post a copy of the disconnection notice in a conspicuous place on or in the building promptly after issuance of the notice.

9.8.10 A gas distributor shall suspend any disconnection action for a period of 21 days from the date of notification by a LEAP Intake 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 14 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 gas distributor also provide a copy of any disconnection notice to a third party, the gas distributor 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 14 days from the date on which the disconnection notice is received by the consumer.

9.8.11 Despite section 9.8.10, upon notification by a LEAP Intake 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 gas distributor may continue its disconnection process. Gas distributors will have up to 14 days to act on the previous disconnection notice and must make a further reasonable effort to contact the consumer in accordance with section 9.8.8 prior to executing disconnection.

9.8.12 A gas distributor 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 gas distributor 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, dependant family member or other person that regularly resides with the consumer; or*
- (b) 14 days from the date on which the disconnection notice is received, in all other cases.*

9.8.13 For the purposes of section 9.8.12:

- (a) where a disconnection notice is sent by mail, the disconnection notice shall be deemed to have been received by the consumer on the fifth calendar day after the date on which the notice was printed by the gas distributor;*
- (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, R.S.O. 1990, c. F.3;*
- (e) *"dependant family member" means a "dependant" as defined in section 29 of the Family Law Act, R.S.O. 1990, c. F.3, and also includes a grandparent who, based on need, is financially dependant on the consumer; and*
- (f) *the gas distributor shall apply the rules relating to the computation of time set out in section 9.3.10.*

9.8.14 At least seven days before issuing a disconnection notice for non-payment, a distributor shall deliver an account overdue notice to the consumer by the consumer's preferred method of communication, if known, or otherwise by mail.

9.8.15 A gas distributor may disconnect without notice in accordance with a court order or for emergency, safety or system reliability reasons.

9.8.16 Where a gas distributor has issued a disconnection notice to a residential consumer for non-payment, the gas distributor shall ensure it has the facilities or staff available to permit the consumer to pay all amounts that are then overdue for payment by credit card issued by a financial institution. Subject to section 9.8.17, this payment option must be offered during the regular business hours of the gas distributor, from the time the disconnection notice is delivered to a residential consumer until the time the gas distributor's staff attends at the consumer's premises to execute the disconnection.

9.8.17 Where a gas distributor attends at a residential consumer's property to execute a disconnection, whether during or after the gas distributor's regular business hours, the gas distributor shall ensure it has the facilities or staff available at that time to permit the consumer to pay all amounts that are then overdue for payment by credit card issued by a financial institution. The gas distributor may, in its discretion, also accept other forms of payment at the time of disconnection.

9.8.18 Where a gas distributor was unsuccessful in its attempt to contact a residential consumer 48 hours before the planned disconnection as required under section 9.8.8, and the gas distributor intends to execute the disconnection by attendance at the consumer's premises, the gas distributor shall make a reasonable attempt to communicate with the consumer, with due regard for the safety and security of the gas distributor's personnel, if the consumer is at the property, to advise that disconnection will be executed and that payment may be made by credit card issued by a financial institution.

9.8.19 A gas distributor shall not disconnect a consumer for non-payment on a day the gas distributor is closed to the public to make payment and/or reconnection arrangements or on the day preceding that day.

9.8.20 The physical process by which a gas distributor disconnects or reconnects shall reflect good utility practice and consider safety as a primary requirement.

9.8.21 Despite section 59 of the Public Utilities Act, R.S.O. 1990, c. P.52, a gas distributor shall not apply any charges for disconnecting a consumer for non-payment.

9.8.22 A gas distributor may recover from the consumer responsible for the disconnection reasonable costs for repairs of the gas distributor's physical assets attached to the property in reconnecting the property.

9.8.23 A gas distributor may recover from the person requesting the reconnection any Board approved reconnection charges. The reconnection charges shall be applied only after reconnection has occurred. If a residential consumer is unable to pay the reconnection charges, the distributor shall offer reasonable payment arrangements. The distributor shall waive the reconnection charges for an eligible low-income customer.

9.9 Winter Disconnection and Reconnection

9.9.1 Subject to section 9.9.3, a gas distributor shall not, during a Disconnection Ban Period:

- (a) disconnect an occupied residential property solely on the grounds of non-payment; or
- (b) issue a disconnection notice in respect of an occupied residential property solely on the grounds of non-payment, provided, however, that the gas distributor may issue a disconnection notice that complies with section 9.8 of this Rule in the last month of the Disconnection Ban Period in respect of a disconnection to take place after the end of the Disconnection Ban Period.

Nothing in this section shall preclude the gas distributor from disconnecting an occupied residential property during a Disconnection Ban Period in accordance with all applicable regulatory requirements, including the required disconnection notice, if at the unsolicited request of the consumer given in writing for that Disconnection Ban Period.

9.9.2 Subject to section 9.9.3, a gas distributor shall ensure that any residential property that had been disconnected solely on the grounds of non-payment is, if an occupied residential property, reconnected by December 1st. Nothing in this section shall require the gas distributor to reconnect an occupied residential property in respect of a Disconnection Ban Period if the consumer gives unsolicited notice to the Licensee not to do so in writing for that Disconnection Ban Period and has not rescinded that notice.

9.9.3 Nothing in sections 9.9.1 or 9.9.2 shall:

- (a) *prevent the gas distributor from taking such action in respect of an occupied residential property as may be required to comply with any applicable and generally accepted safety requirements or standards; or*
- (b) *require the gas distributor to act in a manner contrary to any applicable and generally accepted safety requirements or standards.*

9.9.4 *For the purposes of sections 9.9.1 to 9.9.3:*

“Disconnection Ban Period” means the period commencing at 12:00 am on November 15th in one year and ending at 11:59 pm on April 30th in the following year;

“occupied residential property” means an account with a gas distributor that is:

- (a) *inhabited by a residential consumer; or*
- (b) *in an uninhabited condition as a result of the property having been disconnected by the gas distributor outside of a Disconnection Ban Period.*

9.9.5 *Sections 9.9.1 to 9.9.4 apply despite any other provision of this Rule to the contrary.*

10 CONSUMER COMPLAINT RESPONSE PROCESS

10.1 General

10.1.1 *This section 10 applies only to rate-regulated gas distributors.*

10.2 Definitions

10.2.1 *In this section 10:*

“complaint” means an allegation by a consumer of a breach of an enforceable provision by a gas distributor;

“Consumer Complaint Response Process” means the requirements set out in this section 10;

“enforceable provision” has the meaning given to it in section 3 of the Act; and

“OEB E - Portal” means the Board’s electronic communication tool used to communicate with a gas distributor for the purposes of the Consumer Response Process.

10.3 Complaint Response

10.3.1 *After a consumer directly contacts the gas distributor and makes a complaint, if the complaint is not addressed within 10 business days, the gas distributor shall inform the consumer that the consumer can contact the Board at any time, and shall at the same time provide the consumer with either the Board’s designated toll-free telephone*

number or local telephone number (as requested by the consumer), and the website address designated by the Board for that purpose.

10.3.2 A gas distributor shall, within five business days of the coming into force of this section, provide the Board with an e-mail address for the purposes of the Consumer Complaint Response Process. The gas distributor shall ensure that the e-mail address is monitored at all times during the gas distributor's regular business hours.

10.3.3 A gas distributor shall, within five business days of the coming into force of this section, provide the Board with the following information the name, title, direct telephone number, direct e-mail address, and mailing address of:

- (a) the person designated by the gas distributor as the gas distributor's contact person for purposes of the Consumer Complaint Response Process; and*
- (b) the person that the person in paragraph (a) reports to.*

10.3.4 If any of the information required under sections 10.3.2 or 10.3.3 changes, the gas distributor shall provide the Board with updated information as soon as possible upon becoming aware of the change and in any event no later than five business days of the change taking effect.

10.3.5 Where a non-complaint issue from a consumer is forwarded to a gas distributor through the OEB E-Portal, the gas distributor shall respond directly to the consumer, in a timely manner. In such a case, the gas distributor is not required to follow the process set out in sections 10.3.6 to 10.3.9.

10.3.6 Where a complaint is forwarded to a gas distributor through the OEB E-Portal, the gas distributor shall provide, through the OEB E-Portal, a response to the complaint that meets the requirements of section 10.3.7 within:

- (a) two business days of the date of receipt of the complaint, where the complaint relates to any other matter that the Board has, when forwarding the complaint, designated as having an unduly adverse impact on the consumer or consumers more generally (where applicable); or*
- (b) 10 business days of receipt of the complaint in all other cases*

10.3.7 The gas distributor's response referred to in section 10.3.6 must include the following:

- (a) all pertinent information regarding the complaint, including any relevant background information;*
- (b) the steps taken by the gas distributor to investigate the complaint;*
- (c) the steps taken by the gas distributor to resolve the complaint;*
- (d) any other information that is reasonably necessary to enable a good understanding of the circumstances surrounding the complaint;*

- (e) if the complaint has not been resolved to the satisfaction of the consumer, the reasons why the complaint remains unresolved;*
- (f) if the complaint has been resolved to the satisfaction of the consumer, a description of the resolution and, if any further steps are required to implement the resolution, a timeline for when those steps will be completed; and*
- (g) a copy of all relevant documents and communications between the consumer and the gas distributor in relation to the complaint.*

10.3.8 Within five business days of being requested to do so, a gas distributor shall provide, through the OEB E-Portal, such additional information beyond the information required by section 10.3.7 regarding the gas distributor's handling of a complaint as may reasonably be required by the Board in order to review and assess the matter.

10.3.9 Where section 10.3.7(f) applies and the steps for implementing the resolution were not all completed at the time the gas distributor provides its response under section 10.3.6, the gas distributor shall confirm through the OEB E-Portal once the resolution has been completed. Such confirmation shall be provided as soon as possible, but in no event later than five business days after the date on which the resolution is completed.

10.3.10 For the purposes of the Consumer Complaint Response Process, where there is a 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.