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BY E-MAIL AND WEB POSTING

September 18, 2023

**TO: All Electricity Distributors
All Natural Gas Distributors
All interested parties**

RE: Green Button Connect My Data Terms and Conditions

This letter addresses specific questions received by Ontario Energy Board (OEB) staff about the terms and conditions (T&Cs) referenced in Section 3 (6) of the [Ontario Regulation 633/21](#) (Green Button Regulation). T&Cs are developed by distributors to govern the registration for and the use of Connect My Data (CMD) by authorized third parties. This letter provides OEB staff's guidance to distributors in relation to certain items that may be addressed in a distributor's T&Cs.

The questions from third parties dealt with a number of issues in regard to a specific distributor's T&Cs document that had been posted to its website. The issues dealt with matters such as termination/suspension of access, data accuracy, requirements for cyber security and privacy policies and the process for modifying T&Cs going forward. OEB staff reviewed the issues raised and the specific distributor's T&Cs document, as well as several other T&Cs that were in use by other distributors. OEB staff then engaged in a discussion with the third parties, distributor and an organization representing a number of distributors with the objective of clarifying the concerns of the third parties and the expectations of the distributor in regards to the provisions of the T&Cs. Through successful discussions, a number of matters were clarified and resolved.

To encourage certainty and ensure transparency, and having identified that similar issues appear in other T&Cs that we have reviewed, OEB staff is providing guidance to distributors in relation to the following items that were raised as potential areas of concern by third parties to the implementation of Green Button:

- Requirements on third parties to post privacy and cybersecurity policies;
- Termination and suspension of third-party access to customer data; and
- Data accuracy and Green Button.

As noted in the OEB's [November 1, 2021 staff guidance](#) (2021 Guidance), it would generally not be a distributor's role to monitor the behaviour of a third party once the customer agrees to share their data with the third party. This view has been taken into consideration in developing the guidance that follows, and distributors should consider it as they develop their T&Cs documents.

To ensure transparency and promote access to Green Button, distributors are encouraged to make their T&Cs document publicly available on their website.

Third-party Privacy and Cybersecurity Policies

OEB staff is aware that some distributors' T&Cs have required posting policies dealing with privacy and cybersecurity as a condition of using CMD. In staff's view, it is the third party's responsibility to manage the data under its own privacy policies and legal or regulatory requirements, and for customers to make an informed decision to share their energy data with an available third party of their choosing. In keeping with the view that it is not the distributor's role to monitor third party behaviour, OEB staff is of the view these types of requirements are not necessary in the T&Cs.

Termination / Suspension of Third-party Access

Section 3 (6) of the Green Button Regulation sets out that distributors may terminate third-party access if there is a *significant violation* of the T&Cs under which access to the data was granted. OEB staff has asked the Green Button Industry-led Working Group (GB IWG) to discuss and develop examples of what might qualify as a significant violation.

OEB staff recognizes that distributors, as a condition of their T&Cs, may provide the ability to temporarily suspend access to a third party while it investigates a potential significant violation. OEB staff supports the use of a suspension in such instances and expects distributors to provide adequate notice to third parties and work with them to resolve potential issues to the extent possible.

Furthermore, if the suspension of the third party is subsequently lifted, the prior customer authorization continues to apply to the third party per the Green Button Regulation. This means a suspension of third-party access would not result in customers being inconvenienced by having to reauthorize third-party access related to a

service they had already signed up for, where an investigation does not find a significant violation of the T&Cs.

Data Accuracy and Green Button

Data accuracy and quality are integral to the successful adoption of Green Button by customers and third parties. For some customers, including those with mandated energy-based reporting requirements and those that participate in demand response or conservation programs, the use of Green Button is likely to depend on the level of trust in the data made available.

Consistent with recent discussions at GB IWG meetings, OEB staff expects that the data provided to authorized third parties via Green Button should be the best available data at that time, which means it should have the same accuracy and quality as the data provided to the customer. OEB staff therefore expects distributors to provide this best available data to customers via Download My Data (DMD) and to third parties authorized by customers via Connect My Data (CMD). Further, OEB staff expects that this type of commitment be included in the T&Cs to provide customers and third parties assurance of the distributor's commitment.

Understanding that distributors may at times need to update or correct data, OEB staff expects such updates to occur in a timely manner such that customers and third parties are not unduly inconvenienced or risk financial loss. OEB staff encourages the GB IWG to consider appropriate processes for notification of such updates to customers and third parties.

OEB staff does not expect this guidance to impact a distributor's implementation of Green Button as required by the Green Button Regulation. Any questions relating to this correspondence should be directed to IndustryRelations@oeb.ca.

Yours truly,

Brian Hewson
Vice President, Consumer Protection & Industry Performance