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NOTICE OF PROPOSAL TO AMEND A CODE

PROPOSED AMENDMENTS TO THE STANDARD SUPPLY SERVICE CODE

BOARD FILE NO: EB-2009-0092

**To: All Licensed Electricity Distributors
All Licensed Electricity Retailers
All Participants in Consultation Process RP-2004-0205
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 Standard Supply Service Code (the "SSS Code").

I. Background

The Board is proposing to amend the SSS Code for the following purposes:

- i. to give effect to recent changes to Ontario Regulation 95/05 (Classes of Consumers and Determination of Rates) ("Regulation 95/05"); and
- ii. to address inconsistencies in the application of the seasonal change in the tier threshold for condominiums.

The proposed amendments to the SSS Code are described in further detail in section II and the text of the proposed amendments to the SSS Code is set out in Attachment A to this Notice.

II. Proposed Amendments to the SSS Code

A. Amendments Triggered by Changes to Regulation 95/05

On March 27, 2009, the government filed Ontario Regulation 115/09, which amends Regulation 95/05 as follows:

- i. to extend eligibility for the RPP for all low volume and designated consumers until November 1, 2009; and
- ii. to enable those consumers that will cease to be eligible for the RPP on November 1, 2009 to opt out of the RPP in the interim period regardless of whether or not they have an interval meter.

The SSS Code currently contemplates that only those RPP consumers with interval or other eligible time-of-use meters may opt out of the RPP. This is consistent with Regulation 95/05 as it read prior to being amended by Ontario Regulation 115/09. However, because Regulation 95/05 now allows certain RPP consumers to opt out of the RPP even if they do not have an interval meter, it is necessary to amend the SSS Code to include pricing provisions applicable to such non-interval metered RPP consumers.

Under section 3.2.1 of the SSS Code, the commodity price payable by a non-RPP consumer that has a conventional meter is the weighted average hourly spot market price. The Board is proposing to extend this pricing to "electing spot consumers" that do not have an interval meter and that are now nonetheless permitted by section 8(1)(a) of Regulation 95/05 to opt out of the RPP. The Board is proposing to amend the SSS Code by adding new sections 3.2.1A and 3.2.1B accordingly. The Board is also proposing to amend the definition of "electing spot consumer" in section 1.2.1 of the SSS Code to account for the addition of section 3.2.1A.

B. Seasonal Tier Threshold

Under section 3.3.2(c) of the SSS Code, the tier threshold for RPP consumers in the residential class changes seasonally, with a higher threshold (1000 kilowatt hours per month) being applicable for the winter months (November 1 to April 30) and a lower threshold (600 kilowatt hours per month) being applicable for the summer months (May 1 to October 31). Under section 3.3.2(d) of the SSS Code, the tier threshold for RPP

consumers that are not in the residential class remains constant at 750 kilowatt hours throughout the year.

Section 3.3.3 of the SSS Code extends the seasonal change in tiers to consumers that are deemed to fall in the residential class by virtue of section 3.3.4 of the SSS Code. That section in turn identifies consumers in multi-unit buildings, including condominiums and residential apartments.

While section 3.3.2(c) of the SSS Code clearly indicates that the seasonal change in tier threshold is intended to apply to consumers in the residential class, sections 3.3.3 and 3.3.4 can be read as extending the application of the seasonal change to all condominiums, whether residential or non-residential. The Board understands that this has given rise to uncertainty in terms of the application of the seasonal change in tier threshold to non-residential condominiums.

The Board is proposing to amend the SSS Code to provide greater certainty in relation to the application of the seasonal change in tier threshold. More specifically, the Board is proposing to amend section 3.3.3 of the SSS Code such that the seasonal change will not apply to non-residential condominiums. This proposed amendment is prospective only, and the Board does not expect distributors to make retroactive adjustments to bills issued to condominiums prior to the coming into force of the proposed amendment. A distributor that has applied the seasonal change in tier threshold to a non-residential condominium is expected to commence billing the consumer based on the non-residential tier threshold after the next scheduled meter reading date following the coming into force of the proposed amendment to section 3.3.3.

The Board will make a corresponding amendment to section 3.3.4 of the SSS Code to allow a non-residential condominium to retain the ability to file a declaration for the purposes of determining the tier threshold applicable to the condominium but the tier will be the tier threshold for a consumer that does not fall within the residential class.

The Board is also taking this opportunity to amend section 3.3.4 of the SSS Code to reflect the fact that the *Tenant Protection Act, 1997* has now been replaced with the *Residential Tenancies Act, 2006*. The Board will also amend a typographical error in section 3.2.6 to delete the "t" that is currently between the words "TOU" and "date" in the first sentence.

III. Anticipated Costs and Benefits

A. Amendments Triggered by Changes to Regulation 95/05

The proposed amendments to the SSS Code are required to fill a gap created by, and to give effect to, Ontario Regulation 115/09 (i.e., Regulation 95/05 as amended). While distributors may have to make some changes to their billing systems (or change the accounts for some of their customers), it is anticipated that these proposed amendments will not cause material costs for distributors.

B. Seasonal Tier Threshold

Currently non-residential condominiums are treated in a different manner depending on which distributor's service area they are in. The benefits of the proposed amendments are that non-residential condominiums across the province will be treated in the same manner. The proposed amendments are also in accordance with the intent of the seasonal tier threshold provisions of the SSS Code which were meant to apply to residential consumers. Non-residential condominiums may face increased costs in the winter months because the tier threshold will be lower; however, these costs may be offset by lower costs in the summer months because the tier threshold will be higher. While distributors may have to make some changes to their billing systems (or change the accounts for some of their customers), it is anticipated that these proposed amendments will not cause material costs for distributors.

Overall, the Board anticipates that the benefits of the amendments will outweigh the costs.

IV. Coming Into Force

The Board is proposing that the proposed amendments to the SSS Code come into force on the date on which they are published on the Board's website after having been made by the Board.

V. Cost Awards

The Board will not be granting cost awards in relation to the provision of comments on the proposed amendments to the SSS Code set out in Attachment A.

VI. Invitation to Comment

All interested parties are invited to make written representations on the proposed amendments to the SSS Code set out in Attachment A by **April 9, 2009**.

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 ON 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.oeb.gov.on.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.oeb.gov.on.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@oeb.gov.on.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-2009-0092** and include your name, address, telephone number and, where available, your e-mail address and fax number.

This Notice, including the attached proposed amendments to the SSS Code and all written representations received by the Board in response to this Notice, will be available for public viewing on the Board's web site at www.oeb.gov.on.ca and at the office of the Board during normal business hours.

If you have any questions regarding the proposed amendments to the SSS Code described in this Notice and set out in Attachment A, please contact Russ Houldin at 416-440-8112. The Board's toll free number is 1-888-632-6273.

DATED at Toronto, April 1, 2009.

ONTARIO ENERGY BOARD

Original signed by

John Pickernell
Assistant Board Secretary

Attachments:

Attachment A: Proposed Amendments to the Standard Supply Service Code

Attachment A

Proposed Amendments to the Standard Supply Service Code

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

1. Section 1.2.1 of the Standard Supply Service Code is amended by adding "3.2.1A or" to the end of the definition of "electing spot consumer" between the word "section" and "3.2.2".
2. Section 1.6 of the Standard Supply Service Code is amended by adding the following immediately after section 1.6.2:¹
 - 1.6.3 *The amendments to sections 1.2.1, 3.2.6, 3.3.2, 3.3.3 and 3.3.4 and the addition of sections 3.2.1A and 3.2.1B come into force on the date on which they are published on the Board's website after having been made by the Board.*
3. Section 3 of the Standard Supply Service Code is amended by adding the following immediately after section 3.2.1:
 - 3.2.1A *The commodity price for electricity payable by an electing spot consumer referred to in section 8(1)(a) of Ontario Regulation 95/05 (Classes of Consumers and Determination of Rates) that has a conventional meter shall be the weighted average hourly spot market price, for the period over which the electing spot consumer is being billed, determined in accordance with the Retail Settlement Code, with such adjustment as may be made by the IESO in accordance with the Electricity Act and the regulations.*
 - 3.2.1BA *distributor shall charge an electing spot consumer in accordance with section 3.2.1A only upon being requested to do so in writing by the electing spot consumer. In such a case, the distributor shall charge the electing spot consumer in accordance with section 3.2.1A for electricity consumed after an actual read of the electing spot consumer's meter by the distributor.*
4. Section 3.2.6 of the Standard Supply Service Code is amended by deleting the "t" between the words "TOU" and "date" in the first sentence of the section-

¹ A new section 1.6.2 is proposed to be added to the Standard Supply Service Code as part of proposed amendments issued by the Board on March 10, 2009 in the context of the consultation regarding the provision of service by electricity distributors (EB-2007-0722) and regarding issues pertaining to low-income energy consumers (EB-2008-0150).

5. Section 3.3.2(d) of the Standard Supply Service Code is amended by adding the words "*subject to section 3.3.4,*" immediately before the words "the tier threshold" at the beginning of the section.
6. Section 3.3.3 of the Standard Supply Service Code is deleted and replaced with the following:

3.3.3 For the purposes of section 3.3.2(c), an RPP consumer referred to in section 3.3.4, other than a property defined in the Condominium Act, 1998 that is comprised predominantly of units that are used for non-residential purposes, shall be deemed to fall within the residential class.
7. Section 3.3.4 of the Standard Supply Service Code is amended as follows:
 - i. by deleting the reference to "the *Tenant Protection Act, 1997*" and replacing it with a reference to "the *Residential Tenancies Act, 2006*"; and
 - ii. by adding the phrase "*or 3.3.2(d)*" immediately after the phrase "section 3.3.2(c)" in the second last sentence of the section.