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July 29, 2020

VIA E-MAIL

Christine E. Long
Registrar and Board Secretary
Ontario Energy Board
2300 Yonge Street
Toronto, ON
M4P 1E4

Dear Ms. Long:

**Re: EB-2020-0152: - Proposal to Amend the Standard Supply Service Code
Written Comments of the Vulnerable Energy Consumers Coalitions**

Per the Board's Notice dated July 15, 2020, attached are the written comments of the Vulnerable Energy Consumers Coalition with respect to the above noted proceeding.

Yours truly,

A handwritten signature in black ink, appearing to read 'John Lawford', is written over a horizontal line. The signature is fluid and cursive, with a large loop at the beginning.

John Lawford
Counsel for VECC

EB-2020-0152

ONTARIO ENERGY BOARD

NOTICE OF PROPOSAL TO AMEND THE

STANDARD SUPPLY SERVICE CODE

COMMENTS OF THE

VULNERABLE ENERGY CONSUMERS COALITION (VECC)

A. Introduction

On July 15, 2020 the Ontario Energy Board issued a Notice outlining proposed amendments to the Standard Supply Service Code (SSSC) in order to enable consumers on the Regulated Price Plan (RPP) to opt out of time-of-use (TOU) prices and elect instead to be charged on the basis of tiered pricing and invited comments from interested parties. The Vulnerable Energy Consumers Coalition (VECC) has reviewed the proposal and offers the following comments for the Board's consideration.

B. Guiding Principles

The proposed amendments are driven by the Government of Ontario's June 1, 2020 announcement that it intended to introduce consumer choice for RPP consumers who pay TOU prices. In this regard the Government's new release specifically stated:

"While we make progress to contain this deadly virus, we know people will need to stay home when possible and businesses will need ongoing support as we gradually and safely reopen the economy," said Premier Ford. "Providing additional rate relief, flexibility and customer choice will help ensure everyone can recover from this extraordinary crisis and get back to a life that is as normal as possible."

Starting June 1, 2020, the new COVID-19 Recovery Rate comes into effect for electricity customers who pay TOU rates. This fixed rate will apply to TOU customer bills 24 hours a day, seven days a week, providing stability and certainty for consumers as the government restarts the economy and supports individuals and families who continue to spend more time at home.

The COVID-19 Recovery Rate will be in place until October 31, 2020, followed by a new customer choice initiative. Starting November 1, 2020, customers will be able to choose a plan that best suits their household and lifestyle with the option of either TOU electricity rates or tiered pricing, which will provide a set rate for electricity up to a certain level of consumption.

"We recognize that businesses and families are living with a great deal of uncertainty, and they need to know what they can expect when they open their electricity bills every month," said Minister Rickford. "The new COVID-19 Recovery Rate will provide stability for Ontario electricity consumers, while we work to re-open our province and restart our economy."

Further, the Government's July 3, 2020 posting of proposed amendments to O. Reg. 95/05 (Classes of Consumers and Determination of Rates) on the Regulation Registry included the following as part of the Summary of Proposal:

"On June 1, 2020, it was announced that starting November 1, 2020, Regulated Price Plan (RPP) Time-of-Use (TOU) electricity customers would be able to choose a rate plan that best suits their household and lifestyle by giving them the option of switching from TOU pricing to tiered pricing. Tiered pricing provides a set rate for electricity up to a certain level of consumption, and a higher rate for electricity used above that level."

Based on the Government's new release and Regulation Registry posting, VECC agrees with the statement on page 2 of the Board's covering letter that "inherent in the Government's proposed regulatory amendments is the element of consumer choice". However, in VECCs view also underpinning the Government's initiative is the need to provide certainty to consumers in terms of the electricity prices and, ultimately, the electricity bills that they pay. Given these principles it is important that the proposed amendments: i) support the ability of consumers to be able to choose between the two rate options (i.e., TOU vs. tiered pricing); ii) support the ability of consumers to make an informed choice and iii) support the ability of consumers to clearly know what prices they are actually paying for the electricity they use.

C. Proposed Amendments

VECC's comments are organized based on the sections of the SSSC that are subject to the proposed amendments. Set out below are the sections on which VECC wishes to offer comment.

Section 1.6: Coming into Force

The OEB proposes that the amendments to the SSSC would come into force on October 13, 2020. The OEB states¹ that "this would allow distributors as much time as possible to implement the necessary system changes and make the election form available, while still enabling consumers to submit the form in time for the election to take effect in respect of a billing period that begins on or after November 1, 2020".

It is not clear to VECC (and may not be clear to distributors and/or consumers) what the implications of the "coming into force" date are:

- Does this mean that distributors will not respond (or are not obligated/expected to respond) to consumer requests for information related to their ability to opt-out of TOU pricing prior to October 13th?
- Does this mean that consumers wishing to opt out of TOU pricing are not to forward their notices of their intent to do so until October 13th?
- If notices are sent prior to October 13, 2020, does this mean that distributors cannot (or are not obligated/expected to) advise consumers whose election notice is not incomplete or otherwise deficient that they will be charged the RPP consumer tiered prices (for billing periods that start on or after November 1, 2020) until October 13th?
- If notices are sent prior to October 13, 2020, does this mean that distributors cannot (or are not obligated to) advise consumers whose election notice is incomplete or otherwise deficient until October 13th that the election cannot be processed?

In VECC's view none of the above outcomes are consistent with the principles of consumer choice and price stability/certainty. Indeed, if a consumer cannot request a notification form until October 13th and such a request is made by mail, then it is entirely possible that the consumer will be unable to receive, complete within a couple of days

¹ OEB Cover Letter, page 9

and return the form such that it is received by the distributor 10 business days prior to November 1st. Also, for those utilities able to undertake any of the above activities prior to October 13, 2020, delaying until after that date will simply make the management of the associated work load more difficult.

This section (and the other sections of the SSSC subject to amendment) should be reworded so as to ensure:

- a) Consumers seeking information in support of their decision to remain on/opt-out of TOU pricing prior to the “in force” date are not precluded from doing so.
- b) Utilities able to provide to provide notification forms to consumers prior to the “in force” date are not precluded from and, indeed, encouraged to do so.
- c) Utilities able to receive and process consumer elections to opt-out of TOU pricing prior to the “in force” date are not precluded from doing so and, indeed, encouraged to do so.

Even then, as illustrated by the previous example, VECC is concerned that the proposed October 13th date for “coming into force” may be too late and should be advanced by a week.

Section 3.3: Regulated Price Plan (Tiered Pricing)

There appears to be an inconsistency between Sections 3.3.1 and 3.3.2 in terms of the definition of the tier threshold. Section 3.3.1 states:

“The commodity prices for electricity payable by an RPP consumer that has a conventional meter, or by an RPP consumer that has an eligible time-of-use meter but has elected to be charged on the basis of this section in accordance with section 3.5, shall be:

(a) RPCMT1/kilowatt hour for electricity used during a billing period up to and including the tier threshold; and

(b) RPCMT2/kilowatt hour for electricity used during a billing period in excess of the tier threshold.” (emphasis added)

In contrast, Section 3.3.2 states:

“(c) subject to section 3.3.4, the tier threshold for an RPP consumer that falls within the residential class (including by virtue of the application of section 3.3.3) shall be such the number of kilowatt hours per month as set by the Board from time to time and which may be different for electricity use that occurs in the period November 1 to April 30 and for electricity use that occurs in the period May 1 to October 31;

(d) and subject to section 3.3.4, the tier threshold for an RPP consumer that does not fall within the residential class shall initially be 750 kilowatt hours per month or such other number of kilowatt hours per month as the Board may from time to time determine in accordance with the RPP Manual, provided that no change in the initial tier threshold shall have effect prior to the second term commencement date”. (emphasis added)

As the Board is aware, billing periods are not the same as the calendar months and, indeed, the number of days in a billing period can vary from one bill to the next. As such, there is an issue as to how to translate the tier threshold which (per Section 3.3.2) is defined in terms of kWh per month into the threshold required for Section 3.3.1, which is applied over the billing period. It is VECC’s understanding that the practice across utilities may vary with some distributors simply using the monthly value while others pro-rate the monthly value for each billing period based on the number of days in the billing period. In VECC’s view, now that the use of tiered pricing will become more common, it would be useful if the same approach was used by all distributors. However, in VECC’s view, it is even more important that consumers are informed of the practice employed by their specific utility. Knowing such information in advance will avoid future billing inquiries and/or disputes. If the Board were to establish a common approach for distributors to apply, VECC’s preference would be for one that pro-rated the tiered number of hours per month such that they aligned with the number of days in the billing period.

Section 3.5: RPP Consumer Opt-out of Time-of-Use Pricing

Section 3.5.2 states that: *“A distributor shall make available on its website a form for the notice referred to in section 3.5.1 and provide it directly to any consumer that requests it”*. Currently, this is the only specific obligation that the Code places on

distributors to inform consumers of their ability to choose to opt-out of TOU pricing or how to obtain/execute a notice to do so. VECC notes that Section 3.5.13A will require distributors to *“provide to consumers or otherwise make available such information in respect of the option to elect to be charged tiered prices under section 3.3 rather than time-of-use prices under section 3.4 as may be approved or directed by the Board”*. VECC also notes that (per page 8 of the covering letter):

“The OEB expects distributors to make materials available to support decision-making by their customers. The OEB is considering what materials or tools would be appropriate for the OEB to develop for use by consumers, and that distributors may then also use if they wish rather than developing their own. To that end, the OEB expects to re-engage with stakeholders on this topic in the near term.”

In VECC’s view in order to enable true consumer choice on this issue, distributors will need to provide far more support to consumers than simply posting an “election form” on their web site. This support will extend from making sure consumers are aware that an opt-out option is available, to information regarding their electricity usage patterns to tools to support their decision making. VECC encourages the Board to re-engage with stakeholders on this topic as soon as practical and looks forward to participating.

The Board has also indicated that, at this time, it does not intend to prescribe the format and content of consumer information materials in may choose to do so. In VECC’s view it will be useful for the Board to at least establish some minimum standards in terms of the types of information that should be provided to consumers and how it should be provided (i.e., method of delivery) and that these standards should be one of the subjects dealt with in the Board’s re-engagement with stakeholders.

Section 3.5.3 states that: *“Where a distributor receives a notice referred to in section 3.5.1 that is incomplete or otherwise deficient, the distributor shall notify the consumer within 10 business days of receipt of the notice that the election cannot be processed and the reason it cannot be processed”*. VECC notes that this is the same time period for which a distributor is required to: i) begin charging the RPP consumer tier prices (Section 3.5.4 (a)) and ii) notify the consumer when the tiered pricing will start (Section

3.5.5), if the notice is not incomplete or otherwise deficit. Given that these latter two activities occur after the notice is found not to be incomplete or otherwise deficit, VECC does not understand why Section 3.5.3 has the same 10 business day requirement. In VECC's view the time requirement for Section 3.5.3 should be less than 10 days.

Section 3.5.4 states:

"Where a distributor receives a notice referred to in section 3.5.1 that is not incomplete or otherwise deficient, the distributor shall begin charging the RPP consumer tiered prices under section 3.3:

(a) at the beginning of the first billing period for that RPP consumer after the notice of election is received, if it is received at least 10 business days before the beginning of that billing period; or

(b) otherwise, at the beginning of the second billing period for that RPP consumer after the notice of election is received, if the distributor is unable to begin charging the consumer tiered prices at the beginning of the first billing period;

provided, however, that no election shall be applied to a billing period that begins before November 1, 2020."

It is VECC's understanding that the 10 business day requirement is driven by the fact that staffing and support levels dedicated to customer service vary significantly across distributors as do the support/automated systems they have in place to support changes in the rates used for customer billing. VECC recognizes that the SSSC establishes a common obligation for all distributors and therefore it must recognize the differences between different distributors' capabilities. However, the Board should ensure the wording of SSSC encourages those utilities who are able to do so to begin charging the RPP consumer tiered prices under section 3.3 (or TOU prices in the event a consumer subsequently decides to "switch back") at the beginning of the next billing period after the notice of election is received even if notice is received less than 10 business days before the beginning of that billing period.

Section 3.5.6 states that: *"A notification under section 3.5.3 or 3.5.5 shall comply with any form as may be approved by the Board. The notification shall be delivered by the*

same method of delivery used by the RPP consumer to give the notice under section 3.5.1 and shall not be included with the bill or other communication to the RPP consumer. Where the notification is given by telephone the call must be recorded”.

VECC primary concern with this section is with respect to the utility’s ability to provide notification by telephone, particularly in those instances where the notice is incomplete or otherwise deficient (Section 3.5.3). During the Working Group meetings reference was made to utilities possibly providing such notification using automated telephone messages. At the same time, distributors participating on the Working Group were quite insistent (and rightly so) that they confirm that any notification received is from the account holders or their authorized representative. In VECC’s view the same issue exists with any subsequent communication initiated by the utility such the utility must ensure that notifications provided under Sections 3.5.3 and 3.5.5 are directed to/received by the account holder. In the case of automated telephone messages this cannot be assured. Also, in VECC’s view, automated telephone messages are an inappropriate means of communicating that a consumers notice to opt-out it incomplete or otherwise deficient, particularly when the distributor is obligated (per Section 3.5.3) to provide reasons.

Section 3.5.11 states: *“A distributor shall allow an RPP consumer that is being charged tiered prices under section 3.3 as a result of an election under this section 3.5 to elect at any time to be charged time-of-use prices under section 3.4. Sections 3.5.1 to 3.5.9 apply, with such modifications as the context may require, to this latter election”.* VECC notes that there is no similar provision that clearly states consumers can elect at any time to opt-out of TOU pricing and be charged tiered pricing. However, VECC assumes that this is case as it is consistent with the Board’s approach to allow “maximum flexibility for consumers”² and VECC supports such an approach.

DATED AT OTTAWA, JULY 29, 2020

² OEB Cover Letter, page 7