



Ontario
Energy
Board | Commission
de l'énergie
de l'Ontario

DECISION AND ORDER

EB-2020-0185

Amending Electricity Distributor and Unit Sub-Meter Provider Licences to Require Licensees to Administer the Covid-19 Energy Assistance Program – Small Business

BY DELEGATION, BEFORE: Brian Hewson
Vice President,
Consumer Protection & Industry Performance

August 7, 2020

INTRODUCTION AND SUMMARY

The Ontario Energy Board (OEB), of its own motion, has initiated this proceeding to amend the licences of all licensed electricity distributors and unit sub-meter providers (USMPs) (collectively, Utilities) to support the implementation of the government's new COVID-19 Energy Assistance Program for small business (CEAP-SB).

As set out in this Decision and Order, the licence amendments require Utilities to deliver CEAP-SB to their eligible small business and charitable organization customers, including by making applications for CEAP-SB assistance available to their eligible customers, processing applications for CEAP-SB assistance, and crediting eligible customers' bills with the appropriate amounts.

This Decision and Order is being issued by Delegated Authority without a hearing pursuant to section 6(4) of the *Ontario Energy Board Act, 1998* (OEB Act).

BACKGROUND

In their letter to the OEB dated August 4, 2020, the Minister of Energy, Northern Development and Mines and the Associate Minister of Energy confirmed that the government has allocated \$8 million for CEAP-SB to help small businesses and registered charities who have fallen behind on their energy bills (Ministers' Letter). The Ministers' Letter asked for the OEB's support to implement CEAP-SB, and to take action as necessary to ensure Utilities and natural gas distributors provide CEAP-SB to their small business and registered charity customers. In that regard, the Ministers' Letter further asked the OEB to consider the following:

- Make CEAP-SB available to small businesses and registered charities that meet both of the following criteria:
 - 1) who have fallen behind by at least two billing cycles, but whose accounts were in good standing when the provincial emergency was declared; and
 - 2) who were required to close for at least fifteen business days as a result of a government order or an inability to adapt their business to comply with public health recommendations;
- Provide electricity customers with up to \$850 in support if they primarily use electricity for heating, and up to \$425 otherwise;

- Provide natural gas customers with up to \$425 in support;
- Provide support in respect of only a single location for a small business or registered charity, as determined by the registered business number or charitable registration number; and
- Allocate the \$8 million in support across all Utilities and natural gas distributors.

The Ministers' Letter also indicates that the Ministry of Energy, Northern Development and Mines intends to enter into a transfer agreement with the Independent Electricity System Operator (IESO) to reimburse Utilities for the CEAP-SB credits that they provide to their customers.

DECISION

Under section 70(1) of the OEB Act, a licence may prescribe the conditions under which a person may engage in a licensable activity (as set out in section 57), and such conditions as are appropriate having regard to the OEB's statutory objectives. One of those objectives is to protect the interests of consumers with respect to prices.

The OEB has taken a number of steps to protect consumers in these unprecedented times. Among other things, on June 16, 2020 the OEB amended the licences of Utilities to require them to administer the COVID-19 Energy Assistance Program for residential customers (CEAP residential program). That program also funded by the province, provides credits to residential customers of the Utilities who meet specific eligibility criteria. Given the degree of similarity between the CEAP-SB and the CEAP residential program, this decision is broadly similar to the June 16, 2020, licence amendment decision implementing the CEAP residential program. The OEB also amended the licence of the IESO to require it to assist with the administration of the CEAP residential program.

In order to ensure that CEAP-SB can be delivered on a timely basis, the OEB will require Utilities to play a central role in the delivery and administration of the program in the same way they have in implementing the CEAP residential program. The OEB is of the view that this approach will ensure that the taxpayer funding for CEAP-SB is spent in an efficient and transparent manner, and lead to a timely implementation of the CEAP-SB. The OEB is therefore amending the licences of all Utilities to require them to deliver CEAP-SB to their eligible small business and registered charity customers until such time as their allocated amount of CEAP-SB funding has been depleted. To facilitate the efficient and timely implementation of CEAP-SB, the CEAP-SB licence conditions are aligned where appropriate with those relating to the CEAP residential program.

The new licence conditions, which are effective immediately, are set out in Attachment A to this Decision and Order.

1. *Total CEAP-SB Funding per Utility*

The \$8 million in funding for CEAP-SB is intended to be used to assist small business and charitable organization customers of Utilities as well as customers of natural gas distributors.¹ The OEB has determined that the fair approach to allocating funds is to do so based on the reported number of customers that fall within a certain rate class (for electricity distributors) or below an annual usage threshold (for USMPs). This approach ensures that all small business and registered charity energy consumers (electricity and natural gas) are afforded access to a comparable level of funding based on information reported by the Utilities to the OEB, and is consistent with the approach used for allocating funds under the CEAP residential program. The OEB has further determined that a minimum amount of \$850, being equal to the maximum credit an eligible consumer may receive under CEAP-SB, will be allocated to each Utility that has reported to the OEB: customers in the rate class or below the annual usage threshold, as applicable.

Therefore the OEB has determined that the \$8 million will be allocated as follows:

- a total of \$4.625 million for electricity distributors, to be allocated amongst them based on their respective number of customers in the general service less than 50 kW (GS<50) rate class for 2018 as reported to the OEB
- a total of \$53,700 for USMPs that are serving small business or registered charity customers, to be allocated amongst them based on their respective number of customers in the relevant commercial class whose annual usage is less than 150,000 kWh as reported to the OEB
- a total of \$3.320 million for natural gas distributors, to be allocated amongst them based on their respective number of non-residential customers consuming less than 50,000 cubic meters per year as reported to the OEB

The OEB will advise each Utility of their share of CEAP-SB funding by separate correspondence.

¹ The implementation of CEAB-SB by natural gas distributors is being addressed separately.

2. *Application Intake, Application Form and Processing*

The OEB has determined that Utilities must start accepting CEAP-SB applications as of August 31, 2020. The OEB notes that the extended winter disconnection ban, which applied to small business customers, expired on July 31, 2020, and strongly encourages Utilities to avoid disconnecting any potentially eligible CEAP-SB customers prior to the August 31, 2020 date on which customers can start applying for CEAP-SB.

In order to ensure the timely, cost-effective and consistent implementation of CEAP-SB across the Province, and to facilitate access to CEAP-SB funding by customers, the OEB will require Utilities to use an OEB-approved standard application form (Application Form) which will be provided to Utilities by separate correspondence. The Application Form will, among other things, clearly identify the criteria for CEAP-SB eligibility to minimize the risk of incomplete or ineligible applications. While the Application Form will require the applicant to attest to their eligibility for CEAP-SB, the OEB will not require Utilities to independently verify all aspects of an applicant's eligibility. Utilities will only be expected to verify eligibility information that is already in their possession as part of the customer's account information.

With a view to ensuring that as many small business and registered charity customers as possible are easily able to access CEAP-SB, Utilities will be required to make the Application Form available on their websites and directly to any small business or registered charity customer that requests it. Customers must be allowed to apply by e-mail or mail, as well as online via webform or by phone where a Utility's functionality allows. To ensure a record of all applications, where a Utility accepts applications over the phone, the call must be recorded to document confirmation of all information requested on the Application Form, including consent and the applicant's attestation of eligibility.

Although it is expected that the funding provided through CEAP-SB will meaningfully help many consumers, the budget for the program is limited to \$8 million. The OEB considers it fair and reasonable to require Utilities to process Application Forms in the order that they receive them. Utilities will also be required to process completed Application Forms within 10 business days of receipt. This approach to processing applications is expected to minimize the administrative costs and burden for Utilities while ensuring a timely response to consumers regarding their applications and delivery of CEAP-SB credits to eligible consumers.

Utilities are expected to cease accepting Application Forms and crediting customer bills once the total CEAP-SB funding allocated to the Utility has been depleted. Utilities will

not be permitted to recover any amount of CEAP-SB funding provided to their customers above the amount allocated to them.

Utilities are also expected to make best efforts to inform their customers about CEAP-SB, including by posting information on their websites. As it did with the implementation of CEAP for residential customers, the OEB will support Utilities' implementation of this expectation through consumer communication materials that will be provided to Utilities prior to the commencement of application intake.

3. *Eligibility and Maximum CEAP-SB Credit per Customer*

CEAP-SB benefits for customers are being funded through provincial revenues, and the OEB considers it appropriate for eligibility and maximum funding per customer to be aligned with the government's expectations as set out in the Ministers' Letter. The eligibility criteria are in keeping with the total funds available for the program and provide an appropriate basis for targeting funds to customers whose bills are in arrears and were required to close for a minimum period of time as a result of the COVID-19 emergency.

a. Eligibility

The following customers will qualify for CEAP-SB provided that they meet the other eligibility criteria set out below:

- For customers of electricity distributors, small businesses with a registered business number and charities with a charitable registration number in the GS<50 rate class
- For USMP customers, small businesses with a registered business number and charities with a charitable registration number in the relevant commercial class that use less than 150,000 kWh annually.

CEAP-SB will be available to small business and registered charity customers served by a Utility, including those that have a contract with an electricity retailer, who meet all of the following eligibility criteria:

- In line with the purpose of CEAP-SB to support those small business and registered charity customers who have fallen behind in their bill payments on account of the COVID-19 emergency, the account holder's account was in good standing on March 17, 2020, and the account was not enrolled in a payment agreement for amounts owing prior to March 17, 2020. In other words, all

amounts on account of electricity charges that were payable on or before that date had been fully paid.

- The account holder has failed to make complete payment on account of electricity charges on at least two electricity bills issued since March 17, 2020 and has an overdue balance on the date of their application for CEAP-SB. Account holders whose ability to pay was impacted by COVID-19 and who enrolled in a payment agreement for amounts incurred following March 17, 2020 are eligible.

The small business or registered charity was required to close for at least 15 calendar days after March 17, 2020 as a result of a government order or inability to comply with public health recommendations. To achieve the Ministers' goal of helping small business and registered charity customers impacted by COVID-19, the OEB considers "closed" to mean that the small business or registered charity was unable to maintain regular operations as a result of government order or health recommendations that required them to either fully close operations, limit access to their premises or limit the services provided or available to the public. The account holder will be required to confirm that this is the case on the Application Form.

CEAP-SB funding will be available only once per account holder, and a small business or registered charity can only receive CEAP-SB funding once, even if it has multiple locations. The Application Form will require that the customer confirm and verify the information they provide, including that they have only applied once for CEAP-SB funding.

b. Maximum CEAP-SB Credit per Customer

To maximize the number of customers that receive assistance through CEAP-SB, and consistent with the Ministers' Letter, the maximum credit a CEAP-SB eligible customer may receive is \$850 if they primarily use electricity for heating, and \$425 otherwise. The amount of the credit cannot exceed the amount owing on account of electricity charges on the date of the customer's application for CEAP-SB.

The CEAP-SB credit must be applied on the next available bill issued to the customer after the customer's Application Form has been assessed as complete by the Utility.

4. *Settlement and Reporting*

As noted above, CEAP-SB is being funded through provincial revenues and the Ministry intends to enter into a transfer payment arrangement with the IESO to reimburse Utilities for the amount of the on-bill credits that they provide to eligible customers under CEAP-SB. The OEB will be amending the IESO's licence to make provision for its CEAP-SB settlement responsibilities, and expects that the IESO will implement a settlement process that is, to the extent possible, the same as the one being used for the CEAP residential program in order to implement the program efficiently and minimize costs for both the Utilities and the IESO. Utilities will not be reimbursed for any credits they provide that exceed the total amount of CEAP-SB funding that is allocated to them by the OEB.

Given the expedited rollout of CEAP-SB and the approach taken in respect of the CEAP residential program, the OEB will not require reporting from Utilities on the implementation or operation of CEAP-SB at this time, apart from notifying the OEB when the Utility has expended all of its allocated funds. Information on funds disbursed and number of customers to whom credits are provided will be collected by the IESO as part of the reimbursement process. To ensure that the OEB has access to information in order to confirm compliance with the new licence conditions and to address any customer complaints, Utilities will be required to retain documentation (and telephone recordings, as applicable) relating to their administration of the program as set out in the licence amendments.

5. *Cost Recovery*

In order to ensure that maximum funds are available to assist eligible customers, CEAP-SB funding cannot be used to defray costs incurred by Utilities to implement and administer the program.

On March 25, 2020, the OEB established a new deferral account for rate-regulated electricity distributors; namely, Account 1509 – Impacts Arising from the COVID-19 Emergency.² The OEB's Accounting Order recognized that electricity distributors may incur incremental costs related to the COVID-19 emergency. While CEAP-SB was not known at the time of the issuance of the order, the OEB is of the view that the implementation and administration costs of CEAP-SB may be recorded in Account 1509. Distributors may therefore record the costs of CEAP-SB implementation and administration into Account 1509 Impacts Arising from the COVID-19 Emergency, sub-

² Accounting Order for the Establishment of Deferral Accounts to Record Impacts Arising from the COVID-19 Emergency, March 25, 2020

account Other Costs. The prudence of any costs recorded in this account will be reviewed at a later date.

IT IS ORDERED THAT:

1. The electricity distribution licence of each electricity distributor and the unit sub-metering licence of each unit sub-meter provider be amended to include the conditions set out in Attachment A to this Decision and Order.

DATED at Toronto August 7, 2020

ONTARIO ENERGY BOARD

Original Signed By

Brian Hewson
Vice President, Consumer Protection & Industry Performance

**Attachment A
To
Decision and Order
dated August 7, 2020
EB-2020-0185**

Licence Conditions

Note: The section and paragraph numbers will be revised when integrated into each licence.

1. Administration of COVID-19 Energy Support Program – Small Business

1.1 For the purposes of paragraphs 1.1 to 1.8:

“Application Form” means the form of application for CEAP-SB approved by the Board, including the use of that form by telephone

“CEAP-SB” means the COVID-19 Energy Assistance Program – Small Business as described in the Board’s Decision and Order dated August 7, 2020

“CEAP-SB eligible account” means an account for premises in the Licensee’s GS<50 class (for electricity distributors) / relevant commercial class and whose annual usage is less than 150,000 kWh (for USMPs) that meets all of the following criteria:

- (a) the account holder has a registered business number or charitable registration number for the business or registered charity operating out of the premises,
- (b) the account was in good standing (i.e. all amounts on account of electricity charges that were payable were fully paid) on March 17, 2020, and the account was not enrolled in an arrears payment agreement for amounts owing prior to March 17, 2020,
- (c) complete payment on account of electricity charges has not been made on at least two electricity bills issued since March 17, 2020, and the account has an Overdue Balance on the date of receipt of the Application Form for the account including where the account is enrolled in an arrears payment agreement for amounts incurred following March 17, 2020,

- (d) the account holder has confirmed in the Application Form that it is not applying for a CEAP-SB credit for another location or electricity account anywhere in the Province of Ontario for the same small business or registered charity,
- (e) the account holder has provided a complete Application Form and has declared, through the Application Form, that their small business or registered charity's premises was required to close to the public for regular operations for at least 15 days as a result of a government order or inability to comply with public health recommendations.

Note that the Licensee is only required to verify the information in items (b), (c), and (e) above.

“electricity charges” means:

- (a) charges that appear under the sub-headings “Electricity”, “Delivery”, and “Regulatory Charges” as described in Ontario Regulation 275/04 (Information on Invoices to Certain Classes of Consumers of Electricity) made under the Act, and all applicable taxes on those charges;
- (b) where applicable, charges prescribed by regulations under section 25.33 of the Electricity Act and all applicable taxes on those charges
- (c) Board-approved specific service charges, including late payment charges, and such other charges and applicable taxes associated with the consumption of electricity as may be required by law to be included on the bill issued to the customer or as may be designated by the Board for the purposes of this definition, but not including security deposits, amounts owed by a customer pursuant to a billing adjustment, or amounts under a payment agreement entered into prior to March 17, 2020; and
- (d) any financial assistance provided for under the *Ontario Rebate for Electricity Consumers Act, 2016*; and

“Overdue Balance” means the amount by which the account holder's balance is past due in respect of Electricity Charges at the time the Application Form is received by the Licensee. Amounts that may be on the bill but are not yet past due are not part of the Overdue Balance.

1.2 The Licensee shall start to accept Application Forms as of **August 31**, 2020.

1.3 The Licensee shall:

- (a) Make copies of the Application Form available on its web site and to any customer on request.

- (b) Process all complete Application Forms in the order in which they are received.
 - (c) Accept Application Forms by e-mail or mail, and may also allow the Application Form to be completed online or by telephone, provided that where Application Forms are completed by telephone the call must be recorded and must document confirmation of all information requested on the Application Form, including consent and the applicant's declaration of eligibility.
 - (d) Process each complete Application Form within 10 business days of receipt.
- 1.4 The Licensee shall provide a credit to a CEAP-SB eligible account up to the amount of the Overdue Balance for the account:
- (a) to a maximum of \$850, where the Application Form declares that the account is for small business or registered charity premises that primarily uses electricity for heating; or
 - (b) to a maximum of or \$425, in all other cases.
- The credit must be applied on the next bill issued to the CEAP-SB eligible account after the processing of the Application Form for the account as set out in paragraph 1.3(d), where feasible, and in any event no later than on the following bill.
- 1.5 Despite paragraph 1.4:
- (a) The Licensee is not required to provide a credit to a CEAP-SB eligible account if the total amount of CEAP-SB funding available to the Licensee as specified by the Board has been expended; and
 - (b) The Licensee shall not provide a credit to a CEAP-SB eligible account more than once.
- 1.6 Reimbursement for credits provided by the Licensee to CEAP-SB eligible accounts, up to the total referred to in paragraph 1.5(a), are recoverable from the Independent Electricity System Operator. The Licensee shall provide information in such form and manner, and within such time, as the IESO may reasonably require, in respect of requests for reimbursement. The Licensee shall not seek reimbursement from the Independent Electricity System Operator for any amount above the total referred to in paragraph 1.5(a) or on account of any costs relating to the administration of CEAP-SB.
- 1.7 The Licensee shall keep the following records for two years, and make them available to the Board upon request:
- (a) Copies of all Application Forms received, including recordings of calls where the Application Form is provided by telephone, and copies of any communications with customers about CEAP-SB.

- (b) A record of all Application Forms that were accepted as complete and a credit was provided to CEAP-SB eligible accounts, and a record of all Application Forms that were denied.
 - (c) A record of the credit provided to each CEAP-SB eligible account, as well as the total amount of credits provided to all CEAP-SB eligible accounts.
- 1.8 The Licensee shall report to the Board, as soon as practicable, the date on which the total amount of CEAP-SB funding referred to in paragraph 1.5(a) has been expended.
- 1.9 Paragraphs 1.1 to 1.8 govern over any provisions of the Distribution System Code or the Standard Supply Service Code in the event of any inconsistency.