

**EXECUTIVE SUMMARY**  
**RP-1999-0040: Standard Supply Service Code Decision**

The Ontario Energy Board held a proceeding on certain issues identified as a result of feedback on a Draft Standard Supply Service (SSS) Code issued by Board staff in January 1999. The SSS Code is designed to govern the conduct of distributors in the provision of SSS under Section 29 of *the Electricity Act, 1998* and the terms of the Transitional Distribution Licences issued under Section 70 of the *Ontario Energy Board Act, 1998*.

The specific issues addressed in the proceeding were: the pricing and terms for SSS, procurement of SSS supply, restrictions on SSS providers, distributor affiliate-owned generation and whether Section 2.5.7 of the Affiliate Relationships Code for distributors should be amended to accommodate customer transfers for SSS.

On the issue of *pricing of SSS* several parties supported a spot market price pass-through option for both large and small consumers as recommended by the Electricity Market Design Committee, (with or without smoothing). Some parties supported a fixed price; others advocated an alternative of a one year fixed price option for small consumers and a spot market price pass-through for large consumers. The Board found that small consumers with less than 50 kW of demand should be provided with a fixed price SSS subject to terms approved by the Board. Large consumers with a demand of greater than 50kW should be provided with a spot market price pass-through. Any exceptions will require specific Board approval.

On the issue of *procurement of SSS supply* some parties advocated procurement directly from the spot market and others advocated that distributors should develop a portfolio of supply. The Board found that to minimize risk to distributors and consumers, direct procurement by distributors should be from the spot market, as currently stipulated in the Draft SSS Code. In the alternative, distributors using third party procurement should ensure that their contracts with suppliers minimize risk to distributor and its customers, and also that the resulting SSS rates are no higher than would reflect from direct procurement from the spot market.

On the issue of *restrictions on SSS providers* the Board found that the Draft SSS Code's prohibition on marketing and solicitation of SSS customers by affiliate or third party SSS providers in the distributor's service territory, should be maintained, to avoid consumer confusion.

On the issue of *affiliate-owned generation* the Board found that as a general rule self dealing is to be discouraged and inclusion of affiliated supply in the SSS supply portfolio is subject to review by the Board when SSS rates are approved.

The Board found that the wording of *Section 2.5.7 of the Affiliate Relationships Code* for distributors should be amended to allow transfers of customers to an affiliate without written consent for the purpose of providing SSS.

The Board Panel commented on some of the *implementation issues* related to SSS and indicated that Board staff should develop guidelines for filing of SSS rates by distributors. The other provisions of the Draft SSS Code will be finalized by the Board based on the initial feedback submitted in February 1999.

RP-1999-0040

**IN THE MATTER OF** ss.57 and 70 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Sched. B;

**AND IN THE MATTER OF** a hearing on the Board's own Motion on a proposed Standard Supply Service Code for electricity distributors.

**BEFORE:** F.G. Laughren  
Chair and Presiding Member

R.M.R. Higgin  
Member

A. Birchenough  
Member

**DECISION WITH REASONS**

October 18, 1999



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**Appendix A: Standard Supply Service Code  
Staff Draft for Consultation Purposes - January 1999**



**1. BACKGROUND**

**1.1 THE PROCEEDING**

1.1.1 The Ontario Energy Board (“the Board”, “OEB”), on its own motion, convened a proceeding under subsection 19(4) of the *Ontario Energy Board Act*, 1998 (Energy Competition Act, 19998 S.O. c15, Schedule B) (“the Act” “the OEB Act”) to determine certain matters relating to the obligation of licensed electricity distributors to supply electricity to consumers in accordance with section 29 of *the Electricity Act*, 1998 (“the EA Act”, “Electricity Act”). The Board’s objective was to solicit further input on certain issues which in its view require additional review and consideration of alternatives to the provisions of a Draft Standard Supply Service (SSS) Code issued by Board Staff in January, 1999.

1.1.2 The Board indicated in its Notice of Hearing that it would consider submissions from interested parties on the following issues related to the Draft SSS Code:

- the pricing mechanism for standard supply service;
- restrictions on energy procurement by distributors for standard supply service;
- marketing restrictions on retailers who provide standard supply service; and
- the billing mechanism for standard supply service.

- 1.1.3 In the Notice interested parties were requested to provide written submissions to the Board, and also to deliver oral submissions at a hearing before the Board on a date to be determined.
- 1.1.4 Prior to the receipt of submissions, the Board ordered a technical conference to be held commencing July 13, 1999. Parties were requested to submit alternatives to the provision of SSS and to the Draft SSS Code for consideration at this conference. To give parties an opportunity to fully understand and clarify proposals, intervenors were invited to present options and seek clarification at the conference prior to making their subsequent submissions to the Board.
- 1.1.5 Parties submitting alternatives for consideration at the technical conference were requested to ensure that the proposals would satisfy the legislative requirements. Proposals were also to take into consideration the requirement of distributors to calculate consumers' bills using the hourly pricing data provided by the Independent Electricity Market Operator ("IMO"). A transcript of the technical conference was made available to parties and the Board and is part of the record in this proceeding.

**Parties to the Proceeding**

- 1.1.6 Thirty-eight parties intervened. Below is a list of those parties who actively participated by filing submissions and attending the technical conference.

ATCO Power, Hydro Mississauga, London Hydro, St. Thomas PUC, Ingersoll PUC, Petrolia PUC, Oshawa PUC, Sarnia Hydro, St Catharines Hydro, Whitby Hydro, GPU (General Public Utilities), ENERConnect, International Brotherhood of Electrical Workers (Local 636) ("G6 et al/Power Budd")	Robert Power Alexander Grieve
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Coalition of Distribution Utilities et al ("the Coalition")	Ziyaad Mia
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Competition Bureau	Mark Ronayne J.D. Sutton
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Consumers' Association of Canada ("CAC")	Robert Warren
Direct Energy Marketing Limited and Enershare Technology Corporation ("the Companies")	Dick Perdue David Brown
Enbridge Consumers Gas ("Enbridge")	Barbara Bodner
Energy Probe	Tom Adams Mark Mattson
Energy Advantage Inc.	Dan Pastoric
Energy Cost Management Incorporated ("ECMI")	Roger White Rick Groulx
Enron Capital & Trade Resources Canada Corp. ("Enron")	Aleck Dadson Mark Gelowitz
Green Energy Coalition ("GEC")	David Poch
Heating, Ventilation and Air Conditioning Contractors ("HVAC")	Ian Mondrow
Independent Power Producers' Society of Ontario ("IPPSO")	Tom Brett Barry Chuddy Alan Barnstaple
Municipal Electric Association ("MEA")	Alan Mark Tony Jennings
Municipality of Chatham-Kent Public Utilities Commission	Brian McKerlie



Ontario Hydro Services Company (“OHSC”)	Marcel Reghelini Graham Henderson Michael Miller
Ontario Independent Market Operator (“IMO”)	Amir Shalaby
Ontario Power Generation Inc. (“OPGi”)	Bruce Campbell Andrew Barrett Guy Raffaele Shane Freitag
Ontario Federation of Agriculture (“OFA”)	Peter Canning Ted Cowan
Pollution Probe Foundation (“Pollution Probe”)	Murray Klippenstein Jack Gibbons
Power Workers Union (“PWU”)	Richard Stephenson Robert Menard
Sault Ste Marie PUC/DTE Probyn	Kim Allen Allan Frederick
Toronto Hydro-Electric System Limited (“Toronto Hydro”)	Bruce MacOdrum Mark Rodger Max Cananzi
TransCanada Power	Keith Rawson
The Upper Canada Energy Alliance (“the Alliance”)	Jim Richardson Paul Ferguson
Union Gas Limited (“Union”)	Richard Battista
Vulnerable Energy Consumers Coalition (“VECC”)	Michael Janigan

Woodstock PUC

Ken Quesnelle

1.1.7 Board staff was represented by Jennifer Lea, Brian Hewson and Una O'Reilly.

1.1.8 Letters of comment were received from:  
Campbellford/Seymour PUC  
Federation of Ontario Cottagers' Associations Inc.  
Fort Francis PUC  
Pembroke Hydro

## **1.2 LEGISLATIVE FRAMEWORK FOR STANDARD SUPPLY SERVICE**

### **The Electricity Act**

1.2.1 *The Electricity Act, 1998* (Energy Competition Act, 1998, S.O. 1998 c.15, Schedule A) ("the EA" "Electricity Act") imposes an obligation on distributors of electricity to sell electricity to every person connected to the distributor's distribution system, with some exceptions. Section 29 reads in part:

- 29 (1) A distributor shall sell electricity to every person connected to the distributor's distribution system, except a person who advises the distributor in writing that the person does not wish to purchase electricity from the distributor.
- (2) If, under subsection (1), a person has advised the distributor that the person does not wish to purchase electricity from the distributor, the person may at any time thereafter request the distributor in writing to sell electricity to the person and the distributor shall comply with the request in accordance with its licence.
- (3) If a person connected to the distributor's distribution system purchases electricity from a retailer other than a distributor and the retailer is unable for any reason to sell electricity to the person, the distributor shall sell electricity to the person.

- 1.2.2 The distributor's obligation to sell electricity under section 29 may be removed if the Board finds that there is sufficient competition among retailers in the distributor's service area (ss.29(4)) and the Board is satisfied that consumers in the distributor's service area will continue to have access to electricity (s.29(6)).

**The OEB Act**

- 1.2.3 Section 57 of the OEB Act requires electricity distributors and retailers to be licensed to carry on their distribution or retail businesses in Ontario. A licence issued by the Board or the Board's Director of Licensing may prescribe the conditions under which the licensee engages in the activity of distributing or retailing electricity, and may contain such other conditions as are appropriate having regard to the objectives in the OEB Act and the purposes of the EA (subsection 70(1) the OEB Act). The Board has the authority through the distributor's licence to prescribe the conditions under which the distributor shall provide the service contemplated under section 29 of the Electricity Act.

- 1.2.4 Several subsections of section 70 of the OEB Act are particularly relevant to the Board's authority to determine conditions under which the distributor complies with its obligations under section 29 of the EA. Section 70 reads in part:

70. (2) The conditions of a licence may include provisions,

..... (d) requiring the licensee to observe, with such modifications or exemptions as may be approved by the Board, specified technical rules, operating procedures and codes...

(e) specifying methods or techniques to be applied in determining the licensee's rates; ...

- (9) Subject to subsection 50(4)<sup>1</sup> of the *Electricity Act, 1998*, the licence of a distributor shall specify whether the distributor will comply with section 29 of the *Electricity Act, 1998*,
- (a) directly;
  - (b) through an affiliate;
  - (c) through another person with whom the distributor or an affiliate of the distributor has a contract; or
  - (d) through a combination of methods described in clauses (a), (b) and (c), as specified.
- (10) Despite clause (9)(a) and any licence, a distributor shall not comply with section 29 of the *Electricity Act, 1998* directly after the date prescribed by regulation.

1.2.5 The Ontario Energy Board has been given the jurisdiction to set rates for and prescribe the conditions of the service provided under section 29 of the *Electricity Act, 1998* through several provisions the OEB Act. Section 78 of the OEB Act reads in part:

78. (2) No distributor shall distribute electricity or meet its obligations under section 29 of the *Electricity Act, 1998* except in accordance with an order of the Board.
- (3) The Board may make orders approving or fixing just and reasonable rates for the transmitting or distributing of electricity and for the retailing of electricity in order to meet a distributor's obligations under section 29 of the *Electricity Act, 1998*.
- (4) The Board may make an order under subsection (3) with respect to the retailing of electricity in order to meet a distributor's obligations under section 29 of the *Electricity Act, 1998* even if the distributor is meeting its

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<sup>1</sup>Section 50(4) relates to Ontario Hydro Services Corporation

obligations through an affiliate or through another person with whom the distributor or the affiliate of the distributor has a contract.

1.2.6 The Board, therefore, must approve or fix the rates for any service provided under section 29 of the EA.

**1.3 THE BOARD'S MANDATE TO OVERSEE THE PROVISION OF STANDARD SUPPLY SERVICE**

1.3.1 In prescribing licence conditions for distributors, including the provision of SSS, the Board must have regard to the purposes of the Board. The objectives of the Board in relation to electricity are set out in section 1 of the OEB Act as follows:

1. To facilitate competition in the generation and sale of electricity and to facilitate a smooth transition to competition.
2. To provide generators, retailers and consumers with non-discriminatory access to transmission and distribution systems in Ontario.
3. To protect the interests of consumers with respect to prices and the reliability and quality of electricity service.
4. To promote economic efficiency in the generation, transmission and distribution of electricity.
5. To facilitate the maintenance of a financially viable electricity industry.
6. To facilitate energy efficiency and the use of cleaner, more environmentally benign energy sources in a manner consistent with the policies of the Government of Ontario.

1.3.2 The purposes of the Electricity Act include the first four purposes of the OEB Act plus:

(e) to ensure that Ontario Hydro's debt is repaid in a prudent manner and that the burden of debt repayment is fairly distributed;

1.3.3 The Board determined that a code for the provision of service by distributors under section 29 of the EA should be created and compliance with the code should be a condition of a distributor's licence. The code would set out the conditions under which service would be provided and could include methods or techniques to be applied in determining the licensee's rates for section 29 service. The Board instructed Board staff to prepare a draft code for consultation purposes. Board staff's draft code, entitled "Standard Supply Service Code", was largely based on the third interim and final Reports of the Market Design Committee. A copy of the Draft SSS Code is appended to this Decision as Appendix A.

1.3.4 The Purpose of the Draft SSS Code is stated as follows:

*This Code sets out the minimum conditions that a distributor must meet in carrying out its obligations to sell electricity under Section 29 of the Electricity Act, 1998. Unless otherwise stated in the [distributor's] licence or the Code, these conditions apply to all transactions and interactions between distributors and all consumers of electricity who are connected to the distributor's distribution system.*

1.3.5 In the Board staff Discussion Paper which accompanied the Draft SSS Code the following principles/objectives were suggested:

1. Customers should have access to electricity through their current supplier at market based prices.
2. Customers should not be locked into the standard supply service, but should be free to move to and from the distributors' obligation to sell electricity in order to facilitate retail competition.
3. The provider of SSS should be indifferent with respect to whether a consumer switches to an alternative supplier.

4. Standard supply service is a regulated activity that should not cross subsidize competitive activities;
5. A distributor should not bear any [significant] volume risk or price risks in providing standard supply service;
6. Rules related to standard supply service should ensure that all retail market participants operate on a level playing field.

#### **1.4 BOARD COMMENTS**

1.4.1 The Board finds that the purpose of the Draft SSS Code as stated in Section 1.1 of the Draft Code is clear and that the principles set out in the Board staff Discussion Paper are appropriate and provide additional guidance.

1.4.2 The Board notes that some additional /complementary principles and objectives were suggested by participants in the proceeding:

- Provide a transitional “safe haven” for small consumers if the competitive retail market does not meet their requirements.
- Foster competition in the provision of SSS and facilitate development of a competitive retail market.
- Enhance opportunities for new generation and “green power”.
- Provide flexibility to deal with special circumstances such as existing contractual arrangements and the rural/farm segment of the retail market.
- Require minimum regulatory intervention in the market.

1.4.3 The Board also notes that several parties suggested that a “one size fits all” solution to SSS may not be appropriate and differentiation between customer classes or between demand metered and energy metered customers may be warranted.

1.4.4 The Board considers these suggestions as part of this Decision.





**2. SUMMARY OF SUBMISSIONS BY PARTIES**

2.0.1 The Issues List for the proceeding was based on a review of the initial submissions received in February 1999 in response to the Board staff Draft SSS Code. The selected issues were deemed to be those which were the most contentious and/or could benefit from more extensive consideration of parties' views by the Board. The issues were:

- Pricing of SSS Service
- Procurement of SSS Supply by utilities
- Restrictions on SSS Providers
- Treatment of Local Distribution Company ("LDC") owned generation.

2.0.2 Subsequently, following the Board's decision on a Motion from certain parties to the proceeding, the Issues List was amended to include:

- "whether Section 2.5.7 of the Affiliate Relationships Code regarding customer transfer provisions, should be amended"

2.0.3 The Board has attempted below to summarize the major views on the issues as outlined in the various presentations by parties. The complete presentations are available and form part of the record of the proceeding.

**2.1 PRICING AND PROCUREMENT MODELS FOR SSS**

2.1.1 The parties to the proceeding introduced a number of pricing and procurement models for setting the price of SSS. These models are described in order to provide context for the submissions of parties in this Chapter and Board findings which follow in Chapter 3.

**Spot Price Pass -Through Model**

2.1.2 Under the Spot Price Pass-Through Model, as stipulated in the Draft SSS Code, standard supply service customers would pay a weighted average of the hourly wholesale price for electrical energy (a spot price pass-through) plus a regulated administrative charge that covers the distributor's cost of providing standard supply service.

2.1.3 Distributors would calculate the weighted average price for electrical energy over the billing period by multiplying the hourly spot market price by a consumer's actual or estimated hourly consumption. Consumers with interval meters would pay prices based on their actual hourly usage. Consumers without interval meters would pay prices based on their estimated hourly consumption, determined using a load profile.

2.1.4 The Market Design Committee recommended using a "net system load shape" to establish a load profile for non-interval metered consumers. Using this methodology, distributors would subtract the hourly usage of interval metered customers, from the distributor's overall system hourly load profile and the net (remaining) usage would be allocated among all other consumers who would be billed based on a load profile and the hourly spot market price. If more than one class of customer is envisioned, the Board would need to approve a load profiling methodology that distinguishes estimated hourly usage for each class.

2.1.5 The MDC also suggested that volatility associated with the spot price could be mitigated by smoothing over a billing period, or by the use of "true ups" to the average spot price.

**Yardstick (Comparative Competition) Model**

- 2.1.6 The Yardstick or Comparative Competition model was proposed by Mr. Seabron Adamson, on behalf of G6 et al/Power Budd. The model would permit LDCs to establish a fixed rate for standard supply service customers. Rates would not be capped: all contract related and administrative costs would be passed through to customers except in extraordinary circumstances.
- 2.1.7 Annually, the Board would establish a date for setting standard supply service rates for the following year. Each provider would forward details of its contract portfolio to the Board. The Board would establish end-use rates that would pass on all the costs related to the power purchase portfolio and administration to customers. If more than one class of customers is envisioned, a cost allocation mechanism would need to be defined to determine class rates.
- 2.1.8 Mr. Adamson’s yardstick model creates two broad incentives for local distribution companies to purchase power at the lowest possible cost: the imposition of an economic purchasing requirement as a condition of licence, and the establishment of indirect competition among distributors to achieve lower contract prices. Local distribution companies would be permitted, either alone or through cooperative buying arrangements, to assemble a portfolio of supply contracts.
- 2.1.9 At the end of the rate year, the Board would assess the performance of each utility to determine incentive payments, based on the performance of the supply contracts portfolio. Board staff would calculate a weighted average cost (weighted by total Mwh purchased) to determine the “yardstick” or average, and to define deadband limits around the average. The yardstick could be adjusted to take into account pertinent characteristics that may vary by LDC, such as geographic location or density.
- 2.1.10 Positive and negative incentive payments would be assessed for providers outside the deadband. Negative incentives would be allocated to the shareholder. Positive incentive payments would be financed by bumping up rates slightly, relative to the LDC’s projected portfolio purchase costs, for the following year. Comparative

performance reports would be issued annually, giving shareholders information by which to judge and improve the management performance of their distribution company.

- 2.1.11 Under this model, SSS providers would assemble a portfolio of supply contracts, and would be permitted to contract bilaterally with generators or with retailers and other intermediaries.

**Marginal Floating Price Model**

- 2.1.12 The OFA recommended a modification of the hourly spot price pass-through model for non-interval metered consumers. Using the methodology proposed by the OFA, consumers would be charged a monthly, floating price for electricity that would be calculated by averaging the 12 highest and 12 lowest 15 minute period spot prices each day. Under the Proposed Marginal Floating Price Model, customers without interval meters would be charged the marginal floating price for all their usage over a billing period, rather than have hourly prices allocated to a load profile.

**Price Cap Models**

- 2.1.13 Price Cap models were proposed by the PWU and Sault Ste. Marie PUC.
- 2.1.14 The Sault Ste. Marie PUC recommended that the Board use the hourly spot price to establish an upper limit or cap on SSS rates. Local distribution companies would be permitted to charge prices at or below the hourly spot price.
- 2.1.15 Under the model suggested by the PWU, LDCs would be permitted to charge a fixed rate, set annually by the Board. This rate would be based on a forecast of the average spot market price made by the IMO, and, in recognition of the risks incurred by the standard supply service provider, would also include an annual maximum risk premium.
- 2.1.16 The annual risk premium would be based on cost recovery and an analysis of risk, and would be set through an annual hearing. A single maximum percentage premium would be established for all standard supply service providers across the province.

At the end of each annual term, the IMO would publish the actual average spot market price. If the fixed price charged by the standard supply service provider exceeded the spot market price by the maximum allowable percentage premium, the provider would be required to rebate any excess charges to consumers. If the actual average spot price were higher than the originally determined forecast price, the provider would be permitted to retain the margin.

- 2.1.17 SSS providers would also be permitted to charge an additional amount to compensate for the cost of providing standard supply service, including a reasonable return on investment. The amount of this administrative charge would also be established by the Board, but would be set on a case by case basis. The PWU submitted that this administrative charge would be similar under either a fixed price or spot market based pricing model.

**RFP (Consignment Retailer) Model**

- 2.1.18 John Todd, on behalf of VECC, the Public Interest Advocacy Centre, proposed that the LDCs act as consignment retailers, and be permitted to pass-through intermediate market prices, as well as (or instead of) spot market prices. In particular, SSS could include a fixed annual rate, and also, seasonal or monthly rates. Consumers would check off their preferred option.
- 2.1.19 The LDC would issue a request for bids to supply power for each desired rate option. The bids would be obtained from the intermediaries, generators or through the IMO. The contract(s) would be awarded to those offering the best price.
- 2.1.20 In this model, utilities do not procure power as a principal, and therefore face limited risk. The third party suppliers would absorb all volume and price risk associated with the LDC's standard supply service obligations.
- 2.1.21 As conceived by Mr. Todd, the Board would approve standard requirements for the bidding process. These requirements could, for example, set out disclosure requirements, requirements to publicize the Request for Proposals ("RFP") and protection clauses reserving the right to reject bids. These Board-approved requirements would be enshrined in the SSS.

2.1.22 As long as this bidding process is followed, and power contracts are awarded to the lowest bidder, the final rates for SSS would be deemed to be just and reasonable. Similarly, affiliates would be permitted to bid, along with third parties as long as the Board-approved process was followed and contracts awarded to the lowest bidder(s).

## **2.2 SUBMISSIONS ON PRICING OF SSS**

2.2.1 CAC, the Competition Bureau, Energy Probe and the Companies supported the use of a monthly spot price pass-through as the basis for standard supply service.

2.2.2 TransCanada Energy also supported the spot price pass-through as the long-term default supply mechanism. However, in TransCanada Energy's submission, before the spot price is used as the reference for standard supply service, there should be a liquid market. In the near term, TransCanada Energy proposed an interim fixed price for default supply, set at 3.8 cents/kWh, and backstopped by OPGi.

2.2.3 Arguments supporting a spot price pass-through centered on its regulatory simplicity, ease of implementation, facilitation of customer mobility, and provision of direct access to the wholesale market, with corresponding lower rates. It was noted that the spot price pass-through would permit customers to switch supplier without imposing costs on those who do not, avoid creating fights between LDCs and marketers regarding metering and profiling, reduce transaction costs for those seeking to switch suppliers, and minimize regulatory complexity.

2.2.4 Additionally, parties submitted that fixed price options had undesirable features, including increased risk to distribution companies, an increased price premium associated with price insurance, the creation of confusion between competitive and regulated options, and the erection of barriers to customer mobility and the entry of new competitive retailers.

2.2.5 In general, parties supporting the spot price pass-through acknowledged that there will be more volatility in the new market than is currently the case, but noted that several factors could mitigate against the consumer impact of this volatility. It was suggested that equal billing plans would assist consumers in managing the potential

volatility of spot prices, without adding the premium that would be required to fix a price. Fixed charges for distribution and other services would also help stabilize consumer bills. Moreover, it was suggested that there may be some leveling between demand and commodity prices in the Ontario market. Ontario is located within a North American market segment which has a summer peak. Since the Ontario market price may tend to peak in the winter, there may be a price leveling impact.

- 2.2.6 Other parties supporting the spot price pass-through suggested that shorter billing periods would maximize the price signals to consumers, with minimal need for regulatory oversight and a simplicity of implementation.
- 2.2.7 Woodstock PUC, the Coalition, VECC, G6 et al/Power Budd, IPPSO, GEC, Toronto Hydro, Enron, and Pollution Probe recommended that the Board permit local distribution companies to offer a fixed price for standard supply service.
- 2.2.8 The MEA, the Alliance, Woodstock PUC and ECMI recommended that the Board permit local distribution companies to offer either a fixed or spot price or a combination of the two, at the option of the distribution company. These parties also suggested that a spot price pass-through may be appropriate for industrial customers whose retailers fail, while a fixed rate offering may be appropriate for residential or general service customers who choose to retain their current LDC.
- 2.2.9 Arguments in support of a fixed price centered on the allocation of risk associated with market volatility, the complexity of the spot price pass-through pricing mechanism and the impact of spot based pricing on the wholesale electricity market, specifically on the entry of new generation.
- 2.2.10 In particular, parties noted that the spot price pass-through would shift all the risk associated with volatile wholesale prices onto consumers. Moreover, these parties held that the spot price based methodology would preclude demand-metered consumers from managing the price volatility. Parties noted first, that the price signals would be received after consumption decisions were made, and second, that since usage patterns would be estimated on the basis of a load profile, consumers would not be able to effect a change in the price charged to them if they did attempt to respond to the hourly price signals.



- 2.2.11 Parties in support of a fixed price also submitted that the potentially volatile spot price would increase costs to distributors. These parties argued that both the volatility of spot prices and the complexity of the spot price pass-through mechanism had the potential to confuse consumers, pushing up customer care costs. It was also argued that the length and complexity of the settlement process could increase the requirement for working capital. It was also noted that some utilities had made investments in billing systems (Woodstock PUC's Pre-Paid Power Program) that could not be adapted to a spot price.
- 2.2.12 Additionally, parties in support of a fixed price stated that a fixed price would aid in developing the forward and contract markets required to facilitate the entry of new generation into the wholesale market. In this regard, parties argued that reducing the scale of the contract and forward markets could deter the entry of new environmentally superior generation, particularly green power alternatives.
- 2.2.13 Parties favouring a fixed price generally acknowledged that it would be appropriate to impose some form of restriction on customer mobility in a fixed price regime, to provide distributors with some protection for volume risks.
- 2.2.14 OHSC, OPGi and the PWU expressed no preference for either a fixed or spot price, but submitted that standard supply service should consist of only one service level and price offering by each utility and not multiple price offerings. These parties regarded multiple service offerings as the purview of a competitive retailer, and argued that permitting default suppliers to deliver multiple offerings would retard the development of the competitive retail market.
- 2.2.15 It was also submitted that a uniform method should be imposed across the province to minimize price differences among areas served by different distributors. Additionally, it was suggested that a range of standard supply alternatives would significantly increase the regulatory and administrative burden associated with its provision for the Board and for the standard supply provider.

**2.3 PROCUREMENT OF POWER FOR SSS**

- 2.3.1 CAC, the Companies, the Competition Bureau, Energy Probe and TransCanada Energy supported the Draft SSS Code restriction requiring local distribution companies to purchase electricity for SSS from the spot market. Parties supporting spot market procurement noted that it would establish a simple mechanism to ensure a uniform price across the province.
- 2.3.2 It was noted that LDCs do not currently have experience in procuring power in a competitive market, and that risk management expertise would need either to be acquired or developed, at a cost to consumers. Moreover, prices could depend on the utility's skill in managing procurement rather than market forces.
- 2.3.3 Parties supporting spot market procurement stated that this would reduce risk to the LDC, with a corresponding reduction in prices to consumers. Parties supporting spot market procurement noted that this methodology would also maintain appropriate structural separation between regulated and competitive market activities, thereby enhancing customer mobility.
- 2.3.4 The Alliance, the Coalition, Pollution Probe, Toronto Hydro, GEC, Enron, G6 et al/Power Budd and IPPSO supported permitting LDCs to procure power through assembling a portfolio of power and financial contracts to serve standard supply customers. These parties noted that permitting LDCs assemble contract portfolios would assist in developing the wholesale market, and in particular, in developing more environmentally benign energy sources.
- 2.3.5 In general, parties supporting a contract portfolio procurement approach acknowledged the increased utility risk and regulatory burden associated with this option. These parties stated that the Board's desire for light handed regulation and the practical problem of regulating a large number of distributors should not unduly influence the nature of standard supply pricing and contract rules. In particular, parties noted that options for light handed regulation, such as an economic purchasing requirement and yardstick comparisons were available to the Board. Parties also submitted that, provided the wires businesses were not encumbered, standard supply

providers should be left on their own to determine the appropriate degree of risk they wish to incur.

2.3.6 VECC, and EMCI supported the Request for Proposals (“RFP”) approach to procurement. OHSC did not take a position on the issue of procurement; however, OHSC submitted that if the Board were to permit distributors to procure power from outside the spot market, it would also favor the RFP approach.

2.3.7 In terms of benefits, parties noted that the RFP model would shift the risk of volatility to third parties. Moreover, the RFP model could also limit the risks to utilities that would normally be associated with fixed prices since the tendering process could require third party suppliers to absorb all price and volume risk associated with standard supply service obligations. It was also submitted that the RFP model would assist in building the intermediary and forward markets, thereby encouraging the entry of new generation. Furthermore, it was stated that this approach could also reduce the costs of retailers entering the market, thereby facilitating retail competition.

2.3.8 These parties acknowledged the increased regulatory burden associated with RFP procurement but submitted that an open tendering process, along with Board designed bid criteria, could limit the regulatory complexity of evaluating a large number of SSS providers contracting practices and rates.

## **2.4 MARKETING RESTRICTIONS ON SSS PROVIDERS**

2.4.1 The CAC, the Companies, the PWU and the Competition Bureau supported the marketing restrictions in the Draft SSS Code. These parties submitted that the third party marketing restriction provisions preventing affiliates and third parties from marketing or supplying competitive offerings in the LDC’s service territories, will facilitate the transition to retail competition. Furthermore, parties also stated that these restrictions were essential for the creation of a fair competitive retail market. It was stated that the conditions create clear rules to assist in market development and in ensuring consumer understanding. Specifically, it was noted that the restrictions prevent regulated and unregulated functions from being mixed, and minimize the possibility of cross-subsidization.

- 2.4.2 Parties supporting the restrictions in the Draft SSS Code argued that these would protect personal privacy by minimizing access to private consumer information, thereby reducing the potential for the misuse of confidential information. Furthermore, the restrictions were seen to limit the potential for customer confusion, by ensuring that one entity does not engage in a regulated and unregulated offering at the same time.
- 2.4.3 The Alliance, Toronto Hydro, the Coalition, G6 et al/Power Budd, Enron, the MEA and OPGi did not support the limitations on affiliates and third party marketing in the Draft SSS Code.
- 2.4.4 Parties opposing the marketing restrictions submitted that the restrictions would effectively prohibit legitimate business activities and would unnecessarily impair the ability of distributors and others to pursue legitimate economies and efficiencies for the benefit of electricity consumers in Ontario generally. It was also suggested that it would be more appropriate to establish rules to establish information “fire walls” within companies, rather than to attempt to establish fire walls around companies by prohibiting third party default suppliers from marketing.
- 2.4.5 It was also suggested that the restriction would handicap the affiliate company vis a vis other market competitors. In this context, the Board was cautioned that the restrictions could limit the number and scale of new market entrants. The Board was asked to balance regulatory concerns against the potential harm to the retail market if few MEUs decide to create affiliates.

**2.5 SECTION 2.5.7 OF THE AFFILIATE RELATIONSHIPS CODE**

- 2.5.1 The Companies, VECC and CAC supported maintaining the provisions of Section 2.5.7 of the Affiliate Relationships Code (“ARC”). These parties submitted that this restriction is necessary to ensure that the initial market does not simply preserve the incumbent LDCs’ retail monopolies.
- 2.5.2 Moreover, parties supporting this section of the ARC argued that two important consumer protection principles are encapsulated in this Section: the protection of personal privacy, and the ability of consumers to clearly understand who is responsible

for their electricity supply. Parties submitted that any process to amend the ARC should give primacy to consumer protection.

2.5.3 Toronto Hydro, the Coalition, MEA, Woodstock PUC, ECMI and G6 et al/Power Budd et al favored amending Section 2.5.7 of the ARC. Parties favoring amending the ARC submitted that this section may be contrary to the OEB Act, in that the Legislature intended the retail business to be restructured without the written agreement of each customer.

2.5.4 Parties favoring an amendment noted that preventing the use of an LDC's customer list and data by a retail affiliate places the affiliate at an unfair disadvantage and will reduce the number of competitors in the market. Furthermore it was submitted that permitting an LDC's retail affiliate to deliver default supply would achieve cost reductions, eliminate waste and duplication and achieve economies of scale.

## **2.6 BILLING FOR SSS**

2.6.1 The Competition Bureau supported the Draft SSS Code restrictions preventing bills for standard supply customers from referencing a retailer other than the distributor, and preventing standard supply service bills from including marketing information or promotional materials not approved by the OEB, in order to ensure a level playing field and efficient competition.

2.6.2 OHSC and the PWU advocated that all billing activities requiring access to confidential customer information should remain part of the regulated wires business, not a facet of standard supply. OHSC suggested that this kind of separation would reduce the need to regulate the activities of a third party or affiliate supplying standard service.

2.6.3 OPGi submitted that the issue of providing all licenced retailers with equal access to the billing envelope is worthy of consideration by the Board. OPGi suggested there were two potential benefits to this: the potential for distributors to earn revenues from retailers for access to the billing envelope; and the provision of an effective means to communicate information to customers about the options available in the market.

**2.7 LDC OR AFFILIATE-OWNED GENERATION**

2.7.1 Enron supported the establishment of reasonable guidelines and standards for the use of LDC-owned generation for the provision of standard supply service, and recommended that the Board develop reasonable standards and guidelines to apply to the use of such generation.

2.7.2 OPGi recommended that if the Board permits an affiliate of a distribution company to own and operate generation facilities, then any transaction between the distribution company and its affiliate should be subject to the ARC.

2.7.3 IPPSO opposed the use of new LDC-owned generation for standard supply. IPPSO submitted that the municipal distributor or its affiliate should not purchase any significant portion of their default supply from any generation in which they or any of their affiliates have a beneficial interest to avoid compromising a level playing field. IPPSO also noted that permitting distributors to self-deal would put independent generators at a severe disadvantage in competing for default supply business.



**3. BOARD FINDINGS ON CODE ISSUES AND RELATED SSS MATTERS**

3.0.1 The Board has structured its Findings and comments separately in this Chapter. The distinction is that the Findings relate directly to the Issues which were the subject of submissions by parties to the proceeding and conform to the requirements for a Decision with Reasons as per the *Statutory Powers Procedures Act*. The comments are addressed at matters arising related to implementation of the Standard Supply Service and the Board's role of approving rates for SSS.

**3.1 PRICING OF SSS**

3.1.1 The Draft SSS Code stipulates that:

*[Section 2.5.1] A distributor shall ensure that a SSS customer shall be charged rates for standard supply service that are approved or fixed by the Board and consist of:*  
*(a) the price for electrical energy and*  
*(b) an administrative charge that allows the distributor to recover its costs of standard supply service.*

*[Section 2.5.2] The price for electrical energy provided under standard supply service shall be the weighted average hourly spot market price for electricity, for the period over which the customer is billed, weighted according to the hourly consumption of the standard supply service as measured by a meter or estimated using a [load] profile methodology approved by the Board.*



**Board Findings**

- 3.1.1 The Board has been presented with two main alternatives for pricing of SSS:
- (a) The Market Design Committee approach of spot price pass-through, with or without smoothing and “true-ups”
  - (b) A one year fixed price as advocated by MEA, G6 et al/Power Budd, VECC and others.
- 3.1.2 The Board has been presented with several variations on these two main pricing alternatives. It was also suggested by some intervenors that customers be given a choice of price options and/or that large volume/interval metered customers could be provided with the spot price pass-through and small volume/energy metered customers could be provided with a fixed price.
- 3.1.3 The Board notes but does not agree with the MEA’s position that the wording of subsection 78(7) prevents the Board from imposing a variable rate. The OEB, under the authority of legislation with very similar wording, has for many years set rates in relation to some utility services for gas utilities that are not certain; such rates may contain variable components or vary within a stated range.
- 3.1.4 Some components of the spot price pass-through rate could be fixed, while the commodity component could vary. The cost of electricity at any given point in time is impossible to predict with certainty, and if that cost is to be passed through to customers, a certain rate cannot be set.
- 3.1.5 The variable component of the spot price pass-through rate could not vary at the choice of the utility, but will be driven by market forces. The appropriate protection to be provided to consumers under the rate setting power in section 78 relates to the standard supply service could be achieved by fixing the administrative charges to be levied by the utility, and allowing the commodity portion of the rate to vary with the market price of power.
- 3.1.6 The Board has evaluated the main alternatives presented to it against the objectives and principles applicable to SSS as outlined in Chapter 1 of this Decision.

3.1.7 The Board assesses the merits and features of the alternatives presented as follows:

<b><u>Spot Price Based Option</u></b>	<b><u>One Year Fixed Price Option</u></b>	<b><u>One Year Fixed Price for low volume customers and spot price for larger customers</u></b>
Not what consumers <u>now</u> have	Close to what consumers <u>now</u> have	low volume customers get close to what they <u>now</u> have. Large volume consumers get access to spot market
Facilitates move to retail competition	Reduces retail competition	Reduces retail competition in low volume market relative to pure spot price
Could be lowest long term average price	Fixed price may be higher than average spot price	Fixed price may be higher than average spot price for low volume consumers
Could be subject to price volatility*	Provide predictability for consumer's bills	Volatility risk for large customers. Provides predictability for low volume consumer bills
Universal price across the province	Non-universal price across the province	Non-universal price across the province
Lower regulatory burden	Higher regulatory burden	Higher regulatory burden
Higher risk for Customer	Lower risk for Customer	Lower risk for low volume customers
Lowest risk for distributor	Higher risk for distributor (relative to pure spot)	Higher risk for distributor (relative to pure spot)
Higher customer mobility and contestability	Reduced customer mobility and contestability	Reduced customer mobility and contestability for low volume consumers
Does not directly encourage new generation/green power procurement (Procurement issue)	May encourage new generation/green power procurement (Procurement issue)	May encourage new generation/green power procurement (Procurement issue)
* price volatility may be mitigated by smoothing, periodic price adjustments, true ups, variance accounts and equal billing plans, at the expense of administrative and regulatory simplicity.		

3.1.8 Based on its evaluation of the options presented to it and the related implications, the Board is persuaded that although a spot price pass-through model is preferable from a market and regulatory perspective, small volume/residential consumers may not adapt well to a variable price and there is evidence that many small volume consumers prefer a fixed price for standard supply service. However the Board believes that large volume consumers should be provided with a spot price pass-through mechanism for SSS.

3.1.9 For definitional purposes, the Board adopts the Market Design Committee Retail Technical Panel’s proposed split between large users and small/residential consumers based on a peak demand of 50 kW. Small/residential consumers are assumed to have a peak demand of less than this amount of power and large volume customers a peak demand greater than this amount.

3.1.10 The Board finds that on balance, small volume/residential consumers should receive a “fixed” one year price for SSS with annual “true-ups” to reflect the actual average spot market price as a component of the next year fixed price. Large volume consumers should receive a spot price pass-through. Section 2.5.2 of the Draft SSS Code should accordingly be amended to read:

*[Section 2.5.2] The price for electrical energy provided to large volume consumers with a peak demand of greater than 50 kW, under standard supply service shall be the weighted average hourly spot market price for electricity, for the period over which the customer is billed, weighted according to the hourly consumption of the standard supply service as measured by a meter or estimated using a [load] profile methodology approved by the Board. The price for electrical energy provided to small volume/residential consumers with a peak demand of 50 kW or less, under standard supply service shall be a fixed price, subject to terms established by the Board. (Amendments underlined)*

3.1.11 The Board notes that any distributor when filing its SSS rate proposals may make application for an exemption to the fixed price SSS in favour of a spot price pass-through rate for small volume/residential and general service customers. It would be inappropriate for the utility to offer both a fixed and spot market pass-through.

**Board Panel Comments on Implementation of SSS Pricing and Rates**

- 3.1.12 The Board Panel's Comments which follow are designed to provide guidance on the filing and approval of rates for SSS under the provisions of Section 78 of the OEB Act.
- 3.1.13 The small/residential and general service consumer's bill for SSS will reflect actual use times the utility SSS price. The utility SSS price will be based on the twelve months spot price, as forecasted by the IMO, times the utility-specific net system load shape (the previous year's load shape, minus the aggregate interval metered load).
- 3.1.14 Large consumers with individual interval metering would be billed on hourly spot prices and actual hourly use over the billing period. Large consumers with demand-meters would be billed on hourly spot prices and actual usage. The hourly allocation of usage for these consumers would be based on a load profile to be approved by the Board (for example, the net system load shape).
- 3.1.15 The implications of the fixed price model for small volume/residential consumers include the need for the Board to approve the individual fixed price offerings of each of the utilities for the small/residential and general service segments of the market. However the use of the above formula will minimize this. Also, as a result of differing net system load shape, variations in the SSS rate across the province could occur.
- 3.1.16 Setting utility-specific SSS prices for the first year following the opening of the market will be difficult, given the lack of either price history or accurate forecasts. The lack of a forward price forecast is a significant concern and it may take a year or two for this to develop.
- 3.1.17 The Board Panel understands that the IMO may, for the purpose of setting prudential requirements for wholesale market participants, forecast hourly spot market prices over a year ahead with regular in-year updates. These forecasts may also provide a basis for calculating the utility SSS price and setting a reference price for a utility purchase power variance account (see Procurement Issue in next Section). It is uncertain whether a forecast will be available for utilities to use in proposing SSS

rates, given that rate applications may be made commencing January 2000. It is more likely that the utility-specific price formula will be approved in advance and the spot price forecast may be available for the opening of the wholesale power market.

3.1.18 The Board Panel was also made aware that certain utilities are bound by the terms of existing power supply contracts. Sault Ste Marie PUC is in this category and has power supply arrangements with Great Lakes Power until the year 2006. The Board could take into account the arrangements related to these existing contracts in its review of SSS rates and, as long as the resulting rates for SSS customers are just and reasonable, the Board could approve rates which grandfather the existing supply arrangements.

3.1.19 The Board Panel expects that requirements for filing of proposed SSS rates by distributors will be necessary. In the interests of efficiency these submission requirements should be developed by Board Staff and depending on timing, could be incorporated into the Board's Rate Handbook for Electricity Distributors.

### **3.2 PROCUREMENT OF POWER FOR SSS**

3.2.1 The Draft SSS Code stipulates [Section 2.2.2] that "*A distributor that chooses to fulfill its standard supply service obligation **directly** shall purchase the electricity required to fulfill its obligation to sell electricity to consumers under standard supply service directly from the spot market*". (emphasis added).

#### **Board Findings**

3.2.2 The Board assumes that the Market Design Committee in recommending SSS procurement from the spot market was concerned about minimizing the risk to the distributor from procurement of supply for SSS customers. Since the Board has found that a fixed price with annual true-ups shall be offered to small volume/residential consumers, the risk associated with a floating spot price may as a result be transferred to the utility, if it elects to supply SSS directly. The risk to the utility associated with the procurement by an affiliate or third party contractor is probably unchanged by the requirement that a fixed price be charged to small volume/residential consumers

3.2.3 The Board has been presented with three options and alternatives regarding its oversight of procurement of SSS by electricity distributors:

- (1) where the distributor sells (supplies) directly; procurement from the Independent Market Operator-administered spot market as provided in section 2.2.2 of the Draft SSS Code;
- (2) where the distributor sells (supplies) directly; procurement using a portfolio of supplier contracts, including a portion of the supply from the IMO-administered spot market; and
- (3) where an affiliate or third party sells (supplies) power on behalf of the distributor, supply under appropriate contractual terms.

3.2.4 The main variations proposed in respect of option (2) are a Board-approved procurement procedure involving bidding and a benchmark regulatory oversight process to ensure the prudence of procurement and the protection of SSS customers. Option (3) must include licencing and prudential requirements as per section 2.2.3 of the Draft SSS Code. In the Board's view if third party supply is chosen, there must be adequate criteria to ensure that both the resulting rates are just and reasonable and, as a subset of that criterion, that the rates are no higher than if the distributor procured and sold the electricity directly.

3.2.5 In the event that the distributor elects to fulfill its Section 29 (SSS) obligation **directly** the Board is not convinced that option (1)- procurement from the spot market, is not still an appropriate approach, even if the spot price pass-through pricing mechanism is not adopted for the small volume/residential customers and general service (in recognition of the Board's Finding on a fixed price with "true-ups"). The Board sees the main issue as the management of the price risk by the utility. If the utility has guaranteed a fixed price to small volume/residential and general service consumers for a period of, for example, one year, then the volatility and market risk will be borne by the utility for this period. This risk of gain or loss is in the Board's view, not appropriate and is inconsistent with the principles of minimum risk to the utility and

utility indifference to customer mobility. To address this issue a risk reduction mechanism, is in the Board's view, necessary. (See Panel Comments below)

- 3.2.6 In the Board's view the spot market based approach to procurement for utilities fulfilling their Section 29 obligation **directly** with an appropriate true-up mechanism as outlined above should result in reduction of risk to the utility.
- 3.2.7 The portfolio procurement approach (option(2) above) advocated by several intervenors is more complex from a regulatory perspective and may not be appropriate for smaller utilities. Assuming that each utility would have the flexibility to construct an appropriate power supply portfolio, including a mix of spot, fixed price bilateral and other supply, something that they have not done in the past, there would be significantly greater regulatory burden including a procurement process, guidelines and a process for regulatory oversight of the result.
- 3.2.8 The Board notes the proposal for procurement bidding for utilities fulfilling their Section 29 obligation **directly** put forward by VECC and the light-handed regulatory oversight proposal by G6 et al/Power Budd and Enron, including a yardstick mechanism. Both approaches require further development and given that SSS may be considered a transitional arrangement, the Board questions whether the regulatory burden associated with such an approach is reasonable.
- 3.2.9 It is also in the Board's view questionable whether a utility should procure power for large volume customers, except from the spot market, due to the associated risk and customer mobility issues. In the Board's view, in order to minimize risk for the wires business the utility should be held harmless from price risk and volatility related to the large volume segment of the SSS market. The contractual arrangements would therefore need to reflect this principle.
- 3.2.10 On balance the Board confirms that as stipulated in the Draft SSS Code, power procurement by utilities electing to fulfill their SSS obligation **directly** should be from the IMO-administered spot market. Any special circumstances such as noted in paragraph 3.1.18, will require an exception to this provision and will require a separate application and specific Board approval.

3.2.11 The Board has received submissions relating to the Board’s objectives of fostering energy efficiency and environmentally benign energy sources. These submissions advocate that the SSS segment of the retail market should be made available to new generators and green power providers. The Board acknowledges that as a result of the stipulation that utilities procure SSS from the spot market, there may be some lost opportunities for new generators and green power suppliers. However, the competitive retail market is available to these suppliers. In any event it is the Board’s view that the IMO-administered wholesale market is also the most appropriate way to implement government policy on green power.

3.2.12 In summary, for the above reasons, the Board finds that Section 2.2.2 of the Draft SSS Code should not be amended.

**Board Panel Comments on Oversight of Implementation of SSS procurement by Utilities**

3.2.13 The Board Panel’s Comments which follow are designed to provide direction on the filing and approval of rates for SSS under the provisions of Section 78 of the OEB Act.

3.2.14 The Board believes that a risk management mechanism for utilities fulfilling their Section 29 obligation directly from the spot market is appropriate given the use of a fixed price and spot market procurement. One such mechanism used in other jurisdictions (and also approved by this Board for Ontario gas utilities) is a Purchase Power Variance/Deferral Account (PPVA) to account for variances between the forecast fixed SSS reference price for small volume/residential and general service consumers and the actual spot market power cost of the utility for these customers.

3.2.15 The PPVA balance could be cleared and the credit/debit taken into account and thereby allocated to customers at the time that the fixed SSS price is set for the subsequent SSS “contract” period. In practice for a January price change, the amount of the credit/debit balance could, for example, be estimated based on 9 months actual and three months forecast with any difference at year end forming the opening balance in the PPVA for the next year. This approach is similar to that utilized by Ontario gas utilities for “truing up” the Purchase Gas Variation Account, except that in the latter



case the credit/debit is normally rebated or charged as a one time adjustment to system gas customers. There are some inter-generational inequities created by such a PPVA system since existing customers get the “true-up” in their next year’s “contract” price while SSS customers that have left the utility during the year avoid the true-up. This could also skew the forward market if the true-up premium was significant.

- 3.2.16 The Board Panel has considered whether administration of the PPVA could include quarterly adjustments based on the most recent year forward spot price forecast. This type of adjustment is an attempt to ensure that PPVA balances and true-ups at year end are minimized. Under this approach the distributor would apply in year to either clear the account and/or to reset the reference price and rate if the forecast year end balance is felt to be too large. On balance the Panel finds the administrative complexities for 250 distributors may be too great and a fixed price period of one year with a true up for the next year is more workable.
- 3.2.17 The Board Panel expects that distributors that elect to fulfill their SSS obligation through an affiliate or other third party contractor will ensure that the arrangements result in minimization of risk to the utility and that the rates charged by the distributor for SSS are just and reasonable. In addition to the criteria set out in section 2.2.3 of the Draft SSS Code, the Board will need to be convinced that the rates charged for SSS are not higher by virtue of the arrangements underlying affiliate or third party procurement.
- 3.2.18 The Board Panel has also considered whether there should be rules for utilities to apply to affiliate and third party procurement of power for SSS consumers. In order to ensure that risk to the utility is managed and SSS rates are appropriate, the Board could require that certain minimum features are incorporated in contracts including annual price re-determination and no limitations on volume adjustments to allow for consumer mobility. In addition, the Board could find it appropriate to employ a benchmark comparison of utility SSS rates proposed by those utilities electing to use affiliate and/or third party procurement.

### 3.3 RESTRICTIONS ON SSS PROVIDERS

#### 3.3.1 The Draft SSS Code provides that:

*[Section 2.2.4] A distributor shall ensure that a third party that provides standard supply service on behalf of the distributor does not retail electricity to consumers in the distributor's licensed service territory other than [to] those consumers who are supplied electricity through standard supply service.*

*[Section 2.2.5] A distributor shall ensure that a third party that provides standard supply service on behalf of the distributor does not engage in marketing of electricity or gas in the distributor's licensed service territory.*

#### **Board Findings**

3.3.2 The Draft SSS Code is silent as to the method of procurement when the distributor elects to fulfill its SSS obligation through a third party (either an affiliate or other supplier) as the distributor's licence allows under subsection 70(9) of the Act. The Board staff Discussion Paper alluded to restrictions on marketing if the distributor chose to retail under a separate affiliate structure and also to provide SSS through such an affiliate.

3.3.3 The Board believes that the provisions in Sections 2.2.4 and 2.2.5 of the Draft Code are designed first to ensure that SSS providers (affiliates or third parties) have no inherent market advantage by virtue of being SSS providers and having access to customer information and secondly to minimize confusion among consumers as to who is supplying SSS and who is providing retail competitive offerings. On the other hand, the limitations that these provisions place on individual utility affiliates or third party service providers may add significant organizational costs and/or may have the effect of restricting the number of players in the market.

3.3.4 The Board also notes that the restriction on the use of consumer information in Section 2.4.2 of the Draft SSS Code is designed to ensure that separation and protection of information regarding SSS customers are achieved. The Board believes that this restriction should be the key criterion. If the restrictions on retailing and

marketing were relaxed there would need to be additional protections on solicitation of SSS customers by SSS providers using this SSS customer information. There would also be a requirement for data firewalls between the SSS business of a retailer operating as SSS provider for a utility and the competitive business of that service provider. These requirements would add to the regulatory burden and place additional onus for policing upon the utilities.

3.3.5 The Board has considered the submissions from parties on both sides on the issues related to these Sections of the Draft SSS Code and finds for reasons noted above, that on balance the restrictions on retailing to SSS customers and marketing by SSS providers should be maintained in order to avoid confusion, protect consumers, prevent the potential for cross subsidy and prevent disincentives to new entrants in order to foster competition.

3.3.6 The Board is therefore of the view that no changes should be made to Sections 2.2.4 and 2.2.5 of the Draft SSS Code.

### **3.4 SECTION 2.5.7 OF AFFILIATE RELATIONSHIPS CODE**

#### **Board Findings**

3.4.1 The Board has found above that the restrictions on SSS service providers in Sections 2.2.4 and 2.2.5 of the Draft SSS Code shall be maintained. Accordingly there is no obvious requirement for written authority to provide SSS through an affiliate for the purpose of fulfilling of the distributors' SSS obligation. It would also be difficult and impractical to get the required customer consents.

3.4.2 The Board Panel therefore recommends that Section 2.5.7 of the Affiliate Relationships Code be amended in accordance with the procedures set out in Section 17 of the Transitional Distribution Licence. The proposed amendment should read:

*2.5.7 A utility shall not transfer or assign to an affiliate a customer for whom the utility is providing utility services (as defined in this Code), except for the purpose of fulfilling through an affiliate, the distributor's obligation for standard supply service pursuant to Section 29 of the Electricity Act, 1998, unless the customer gives*

*permission to such transfer or assignment in writing.* (Proposed amendment underlined)

- 3.4.3 The Board notes that the distributor maintains the Section 29 obligation and SSS relationship with the consumer and the provision of SSS through an affiliate is a convenience allowed by the OEB Act.

### **3.5 LDC OR AFFILIATE-OWNED GENERATION**

#### **Board Finding**

- 3.5.1 Sections 80 and 82 of the OEB Act stipulate that the acquisition of generation by a distributor may be reviewed by the Board. The main issue in this proceeding is whether a distributor using third party procurement should allow utility or utility affiliate-owned supply to be included in the third party supply for SSS. In the Board's view any self dealing related to power procurement should be avoided. However, if this occurs, then the third party procurement process should not provide for any preference for affiliated supply and the utility must disclose any supply arrangements and price data necessary for the Board to determine that SSS rates based, in whole or in part, on affiliated generation are just and reasonable. This is a rate issue and does not require a change to the Draft SSS Code.

### **3.6 BILLING FOR SSS**

#### **Board Finding**

- 3.6.1 The Board anticipates that the details of the bill settlement process should be considered as part of the work of the Board's Retail Settlement Task Force. However, the Board expects that the direct relationship between the utility and customer must extend to the provision of SSS. The provision of the SSS function and the related billing by a third party is a service to the utility and the utility maintains its direct relationship with the customer related to mobility, customer service, notification and other matters. The provisions of Sections 2.7.2 and 2.7.3 are appropriate.

**3.7 CUSTOMER MOBILITY**

**Board Findings**

- 3.7.1 Customer mobility relates to the ability of SSS consumers to leave SSS upon notification in writing to the utility and also to return to SSS service by written notice to the utility, as provided under section 29 of the Electricity Act.
- 3.7.2 The Board notes that a consequence of a fixed price SSS offering from the utility for small volume/residential and general service consumers, is that the utility may not be disinterested as to whether consumers discontinue SSS. As a result there may be an incentive for the distributor to reduce customer mobility for these customers, compared to a spot price pass through price regime. However, the Board has found that a distributor is allowed to procure power for small volume SSS consumers from the spot market directly then customer mobility should not be a major issue.
- 3.7.3 The distributor is also allowed by its licence to contract to fulfill its Section 29 obligation by either an affiliate or a third party SSS provider. In the Board's view it is reasonable to expect that the distributor will contract in such a way as to reduce such volume and price risk. Accordingly, the distributor should not restrict customer mobility, subject only to reasonable administrative considerations.
- 3.7.4 The provisions of Section 2.1.2 of the Draft SSS Code are still appropriate with a fixed price SSS regime.

**Additional Board Panel Comments on Customer Mobility**

- 3.7.5 In the interests of facilitating competition, the Board Panel believes that business of SSS customers should be contestable and to lock them in to a specific term (of up to a year ) is in conflict with this objective. Given that utilities have the option of providing SSS directly from the spot market or contracting with a third party, customer mobility should not be restricted as a result of this Decision.
- 3.7.6 Accordingly, a notice period of either up to one meter read period or one billing period, if the customer requests a final meter read, is reasonable. Any SSS customers

who wish to discontinue utility SSS shall be allowed to do so if they notify the utility in writing one billing cycle in advance and/or request a final meter read.

3.7.7 Large volume consumers should also notify the utility one billing cycle in advance of their intention to leave utility SSS.

3.7.8 For consumers that notify the utility that they wish to return to the SSS there should normally be a corresponding waiting period of one billing period. However from a practical perspective any consumer that sends the utility a request to return to service on short notice may be provided with SSS.

3.7.9 The Board Panel expects these matters to be addressed by the Retail Settlement Code and provides this guidance to the Task Force to consider in making its recommendations to the full Board.

3.7.10 The Board Panel notes that if a distributor using third party supply (rather than the spot market) cannot simultaneously adjust its supply arrangements, it may be reasonable for a temporary price premium related to the distributor's incremental supply cost to be charged, or for supply to be arranged from the spot market. The criteria for this should be addressed in the proposed SSS Guidelines for incorporation into the Rate Handbook for Distributors.

### **3.8 SSS SERVICE CHARGES**

#### **Board Panel Comment**

3.8.1 The Board Panel recommends that a Board-approved standard service charge for SSS shall be set for each utility in accordance with Section 2.5.3 of the Draft SSS Code. This charge shall cover the incremental costs of settlement of SSS accounts and the carrying costs of the balance in the PPVA if such an account is approved. The Board Panel expects that the Retail Settlement Task Force will consider this and a guideline on the level of this SSS charge will be incorporated into the SSS Guidelines for inclusion in the Rate Handbook.



**4. COSTS AND COMPLETION OF THE PROCEEDING**

**4.1 COSTS**

4.1.1 Section 30 of the OEB Act states

- (1) “the costs of and incidental to any proceeding before the Board are in its discretion and may be fixed in any case at a sum certain or may be assessed.”
- (2) “The Board may order by whom and to whom any costs are to be paid and by whom they are to be allowed.”

4.1.2 The Board has received requests for cost awards in the SSS proceeding from a number of intervenors, and directs that those intervenors who are eligible for a cost award, according to the Board’s eligibility guidelines, shall receive 100% of their eligible costs and shall file their cost claims with the Board’s Assessment Officer, in accordance with the Board’s guidelines, within 15 working days of the date of issuance of this Decision.

4.1.3 The Board Orders that the eligible costs of intervenors as assessed by the Board’s Assessment Officer, shall be paid by all licenced electricity distributors of record as of September 30, 1999, based on gross revenue for the year 1998.



4.1.4 The Board will issue its Cost Orders to licensed electricity distributors in due course.

4.1.5 The Board's own costs of, and incidental to, the proceeding will also be paid by all licensed electricity distributors of record as of September 30, 1999 using an allocation based also on gross revenue for fiscal 1998. The Board's cost invoice will be issued shortly.

## **4.2 COMPLETION OF THE PROCEEDING**

4.2.1 The Board Panel will participate with the full Board with the objective of finalization of the Draft Standard Supply Code. Comments received in the initial responses to the draft SSS Code of January 1999 and the Board's Findings in this Decision on the issues related to the SSS Code will be incorporated into the final version of the Code.

4.2.2 The Board Panel's comments herein regarding implementation of SSS pricing, procurement and rates will form direction to Board staff in the development of guidelines and filing requirements for the Board's approval of SSS rates. The Board Panel anticipates that stakeholders will be consulted prior to finalization, and the resultant requirements and methodologies will be incorporated into the Board's rate setting process for SSS.

4.2.3 These requirements will include detailed methodology for the pricing and procurement of standard supply, including the calculation required to "fix" the rate to be charged by distributors carrying out their standard supply directly, and the specific rules relating to the distributors' "true-ups" and the administration of the PPVA. In finalizing the SSS pricing methodology, Staff will also develop the methodology for setting the rate to be charged by third parties delivering standard supply, along with an appropriate mechanism to determine that third party standard supply service rates are just and reasonable. In finalizing the Board's requirements for limiting distributor risk related to standard supply service, Board staff will develop for Board approval, minimum contract requirements that must be imposed by utilities on third party providers.

- 4.2.4 The Board Panel's views and recommendations regarding customer mobility and SSS charges should be considered and addressed in the recommendations of the Retail Settlement Code Task Force Report for consideration by the full Board.

DATED at Toronto October 18, 1999.

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F.G. Laughren  
Chair and Presiding Member

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R.M.R. Higgin  
Member

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A. Birchenough  
Member