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Backgrounder / Questions & Answers

Amendments to Distribution System Code Electricity Distributor Consumer Security Deposits

The Ontario Energy Board has amended its Distribution System Code (DSC) for electricity distributors to include requirements for electricity consumer security deposits in order to ensure that consumers receive consistent and equitable treatment.

The Board does not require electricity distributors to collect a security deposit from consumers. However, the DSC amendments spell out the conditions under which a security deposit can be collected.

The amendments to the DSC also outline the maximum amounts of security deposits and the length of time that distributors can hold them. The amendments cover the residential, commercial and industrial rate classes.

Q. Do the Distribution System Code (DSC) amendments regarding consumer security deposits apply to Ontario natural gas utilities?

A. No. The DSC amendments apply only to Ontario electricity distributors.

Q. Under what circumstances is an electricity distributor permitted to require a security deposit?

A. An electricity distributor may require a security deposit if, during the relevant time period, the consumer has received more than one disconnection notice from the distributor **OR** more than one cheque given to the distributor by the consumer has been returned for insufficient funds (NSF) **OR** more than one pre-authorized payment to the distributor has been returned for insufficient funds **OR** a disconnect / collect trip has occurred.

The relevant time period differs by rate class:

- 1 year** in the case of a residential customer;
- 5 years** for non-residential customer in a <50 kW demand rate class; or
- 7 years** in the case of a non-residential customer in any other rate class.

Q. Does the Board require an electricity distributor to request a security deposit from a consumer if the consumer does not have good payment history?

A. No. It is at the full discretion of the distributor whether a deposit would be required in cases where the customer does not have good payment history.

Q. How many years of good payment history must a consumer have to be exempted from providing a deposit or to have their deposit refunded?

A. The number of years differs by customer class:

- 1 year** in the case of a residential customer;
- 5 years** for non-residential customer in a <50 kW demand rate class; or
- 7 years** in the case of a non-residential customer in any other rate class.

The time period that makes up the good payment history must be the most recent period of time and, some of the time period must have occurred in the previous 24 months.

Q. Many consumers move and become a new customer of a distributor with whom they have no payment history. Do such consumers have any options?

A. There are two options:

- The consumer may provide a reference letter that confirms good payment history from another electricity or natural gas utility in Canada of which they were previously a customer;

OR

- At the consumer's expense, they may provide a credit check that demonstrates they are a good credit risk from a company such as Equifax, TransUnion or Dun & Bradstreet [*Note: A credit check cannot be used by a customer in a >5,000 kW demand rate class*].

Q. Where a consumer does provide a deposit, how is the amount calculated?

A. If the distributor bills their customers on a monthly basis, the maximum amount of a security deposit which a distributor may require a customer to pay is calculated based on 2.5 times the customer's average bill (over the most recent 12 consecutive months within the past 2 years).

If distributor bills its customers bi-monthly or quarterly, the average bill is multiplied by 1.75 or 1.5, respectively.

This calculation represents the maximum amount, the distributor has the discretion to require any amount up to the maximum including no deposit at all.

Q. What forms of security can be provided?

A. The form of payment for a *residential* customer can be either cash or cheque. A *non-residential* customer can provide cash, a cheque or an automatically renewing, irrevocable letter of credit. The distributor may also accept other forms of security (e.g., surety bonds, third party guarantees) at the distributor's discretion.

Q. If a consumer is required to provide a deposit, is the distributor required to pay the consumer any interest?

A. Yes, if cash or a cheque is provided, interest must be paid commencing on receipt of the total deposit. The interest rate that must be used to calculate the interest owed is the Bank of Canada's *Prime Business Rate less 2%*.

Interest accrued must be paid out by the distributor at least once every 12 months **OR** on return or application of the security deposit or closure of the account, whichever comes first.

Q. If an electricity distributor requests a deposit, is the consumer required to provide it in one lump sum payment?

A. No. If the consumer chooses, they may provide the deposit in equal instalments over a 4-month period. Instalments may be provided over a period exceeding 4 months at the distributor's discretion or less than 4 months at the consumer's discretion.

Q. If a consumer is moving or closing their account with their distributor for any other reason, when is the distributor required to return the deposit?

A. The distributor may return the deposit at any time within 6 weeks. However, if the consumer failed to pay their final bill, the distributor may retain the deposit to apply against the balance owing.

Q. Are distributors required to implement the DSC amendments immediately?

A. Distributors have been provided with a 6-month implementation period to make the necessary changes to their current security deposit policies and customer information systems. The implementation period ends in July 2004.

Q. If a consumer currently has a security deposit held by a distributor and has achieved a good payment history, when could they expect the distributor to return their security deposit?

A. The amendments to the DSC will require distributors to return many consumer security deposits that they currently hold. To address potential distributor cash flow issues as a result, a 1-year transition period has been provided for distributors to return these deposits. The transition period ends on February 1, 2005. Distributors may refund a deposit at any time prior to February 1, 2005 at their discretion.

Q. Distributors are only required to undertake a one-time annual review of all deposits to determine if any deposits should be refunded or adjusted. Do consumers have to wait for this annual review?

A. No. After the transition period that ends February 1, 2005, if the consumer's anniversary date of providing the deposit is earlier than the distributor's annual review, and the consumer has maintained a good payment history, the consumer may request a refund, in writing, any day after their anniversary date.

Q. Many consumers have seasonal dwellings such as cottages. What code provisions apply with respect to security deposits?

A. Seasonal dwellings are deemed to be residential consumers for security deposit purposes and require 1 year of good payment history.

Q. A non-residential consumer over 5,000 kW has maintained a good payment history for 7 years but did not receive a full refund. Why?

A. For non-residential consumers over 5,000 kW that represent the greatest exposure risk, distributors are only required to refund 50% of the deposit based solely on good payment history.

To obtain a higher refund of the deposit, the consumer must obtain a credit rating from Dominion Bond Rating Service (DBRS), Standard & Poors (S&P) or Moody's. A credit rating replaces good payment history and the refund amount will depend on the individual rating. A table is provided in the DSC amendments for the ratings and corresponding refund.

Q. There is a provision for non-residential consumers under 5,000 kW and over 50 kW to opt for using a credit rating. Why would such a customer pay for a credit rating when they can get a full refund based on good payment history alone?

A. Once a consumer has obtained a credit rating, the distributor must provide a refund immediately with no requirement to wait for 7 years of good payment history. For credit ratings obtained during the transition period, the distributor must refund the deposit as soon as the transition period is over on February 1, 2005.

Q. Some consumers and distributors have entered into a special arrangement to increase the frequency of billing (e.g., weekly) to avoid the need for a security deposit. Can such special arrangements continue?

A. Yes. The Board has made provisions to facilitate the continuation of such arrangements that are mutually agreeable.

Q. Are these code amendments final?

A. Yes. The Board has held an extensive consultation process leading up to the DSC amendments. The process began with a multi-stakeholder working group that included diverse electricity distributors, consumer and business groups as well as industry and regulatory sector representation. All interested parties were provided with the opportunity to provide comments on the proposed DSC amendments during two rounds of consultation.