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## BY E-MAIL AND WEB POSTING

January 6, 2011

**To: All Licensed Electricity Distributors  
All Licensed Electricity Retailers  
All Licensed Unit Sub-Meter Providers  
All Other Interested Parties**

**Re: Implementation of the Ontario Clean Energy Benefit  
Board File No: EB-2011-0009**

The *Ontario Clean Energy Benefit Act, 2010* (the “OCEB Act”) establishes a framework under which consumers with eligible accounts are entitled to receive financial assistance – the 10% Ontario Clean Energy Benefit or “OCEB” – in respect of the cost of their electricity for the next five years. Rules pertaining to the implementation of that framework are set out in Ontario Regulation 495/10 (General) (the “OCEB Regulation”) made under the OCEB Act. The OCEB Act and the OCEB Regulation came into force on January 1, 2011, and are “enforceable provisions” within the meaning of the *Ontario Energy Board Act, 1998*.

Among other things, the OCEB Regulation contemplates that the Ontario Energy Board (the “Board”) will establish the date(s) by which certain OCEB-related settlement transactions are to take place, and may approve and provide direction in relation to the establishment and maintenance of OCEB-related variance accounts by rate-regulated licensed distributors.

This letter sets out the Board’s direction regarding these two issues. It also:

- i. establishes new reporting requirements for licensed distributors, licensed unit sub-meter providers and licensed retailers that use retailer-consolidated billing relating to the timing of their implementation of the OCEB; and
- ii. provides guidance in relation to a number of issues relating to the application of the OCEB.

## **A. Dates for Payments by Licensed Distributors**

Under the settlement regime established by the OCEB Regulation, the funds necessary to provide reimbursement in relation to financial assistance provided to consumers by licensed distributors (including host distributors and wholly-embedded distributors) and licensed retailers (whether using distributor-consolidated billing or retailer-consolidated billing) flow from the Minister of Finance to the Independent Electricity System Operator (the "IESO"), and then to licensed distributors that are market participants. These "upstream" payments are described in sections 11(3)(a) and 11(3)(b) of the OCEB Regulation and are made at the times identified for that purpose in those sections.

Licensed distributors are, in turn, required to make payments for the purposes of reimbursing other parties in relation to the financial assistance that these other parties provide to consumers that are entitled to receive the OCEB. These payments are described in sections 11(3)(c) and 11(3)(d) of the OCEB Regulation, and are:

- i. payments by host distributors to each of their wholly-embedded distributors in respect of financial assistance provided to consumers by (a) the wholly-embedded distributor; and (b) licensed retailers who use retailer-consolidated billing in respect of consumers in the wholly-embedded distributor's service area; and
- ii. payments by licensed distributors to each licensed retailer who uses retailer-consolidated billing in respect of financial assistance provided by the licensed retailer to consumers in the licensed distributor's service area.

These "downstream" payments are to be made before the date specified for that purpose by the Board.

Guidance on the filing of information with the IESO to support reimbursements to licensed distributors that are market participants is expected to be provided by the IESO by the end of January. The Board understands that upstream payments to these licensed distributors will be made by the IESO on the same schedule as is currently the case for the Regulated Price Plan ("RPP") and the Global Adjustment. Specifically, the licensed distributor will provide the required information to the IESO by the 4<sup>th</sup> business day of a month, and the amount of the reimbursement will be reflected on the invoice issued to the licensed distributor by the IESO on the 10<sup>th</sup> business day of the month.

The upstream portion of the settlement regime will therefore be completed by the 10<sup>th</sup> business day of each month. As such, licensed distributors that are market participants would as of that day be in a position to provide the reimbursement referred to in sections 11(3)(c) and 11(3)(d) to wholly-embedded distributors and licensed retailers that use retailer-consolidated billing. Licensed distributors that are not market participants would in turn be in a position to provide the reimbursement referred to in section 11(3)(d) of the OCEB Regulation a day or two later.

The Board is therefore setting the following dates for downstream reimbursement payments, commencing in February 2011:

- i. the 13<sup>th</sup> business day of each month as the date before which the payments referred to in section 11(3)(c) must be made by host distributors to their wholly-embedded distributors;
- ii. the 13<sup>th</sup> business day of each month as the date before which the payments referred to in section 11(3)(d) must be made by licensed distributors that are market participants to licensed retailers that use retailer-consolidated billing; and
- iii. the 15<sup>th</sup> business day of each month as the date before which the payments referred to in section 11(3)(d) must be made by licensed distributors that are not market participants to licensed retailers that use retailer-consolidated billing.

The Board emphasizes that downstream payments must be made before the applicable date specified above, and not on those dates.

As permitted by sections 11(7) and 11(8) of the OCEB Regulation, these payments may be made by way of set-off in the accounts maintained by the party responsible for making the reimbursement payments.

Licensed distributors and licensed retailers must ensure that they have the necessary processes in place to allow for the timely flow of the information required to support the settlement regime described in the OCEB Regulation, including the timing of payments referred to above.

## **B. Accounting Treatment**

Section 14 of the OCEB Regulation requires rate-regulated licensed distributors to establish and maintain such variance accounts as may be necessary or desirable for the purposes of the OCEB Act and the OCEB Regulation, with the approval of and subject to any direction from the Board.

Under the OCEB Act, each licensed distributor is expected to adapt its invoices as required to provide financial assistance under that Act (in the form of a credit on the consumer's invoice) by the time the distributor issues its first invoice in 2011 in respect of an eligible account. A licensed distributor that is not able to do so by that time must do so as soon as possible thereafter, and in any event no later than May 1, 2011. A delay in the adaptation of invoices is permitted only for technical or operational reasons. A consumer's entitlement to financial assistance arises as of January 1, 2011, and this entitlement is not affected by any delay in the issuance of compliant invoices.

Under the OCEB Regulation, licensed distributors may use estimates for the purposes of obtaining reimbursement for the financial assistance that they are required to provide to consumers. The Board expects that licensed distributors will avail themselves of this flexibility as appropriate, and will do so using reasonable estimates. Where estimates are used, the licensed distributor must include an adjustment for the difference between the estimate and the actual amount of financial assistance as soon as possible after the actual amount becomes known.

Licensed distributors are expected to follow accrual accounting in respect of financial assistance under the OCEB Act. They will in any event need to establish internal payable and receivable accounts to record and track that financial assistance.

Under the OCEB settlement regime, each month a distributor can obtain reimbursement from the IESO or a host distributor, as applicable, in relation to financial assistance to which consumers were entitled in the previous month, as well as in relation to any adjustments to be made in respect of earlier months. This generally eliminates the need for a variance account. By way of exception, however, the Board does anticipate that licensed distributors that cannot adapt their invoices as of January 1, 2011 will require a variance account for OCEB purposes. Such licensed distributors may capture the difference between the amount of reimbursement claimed and the financial assistance credited to eligible accounts in a new sub-account of Account 1508, Other

Regulatory Assets; namely, “Sub-account Financial Assistance Payment and Recovery Variance – Ontario Clean Energy Benefit Act”. Such distributors shall also track and record carrying charges in new “Sub-account Financial Assistance Payment and Recovery Carrying Charges”. Carrying charges shall be recorded on the monthly principal opening credit balance in “Sub-account Financial Assistance Payment and Recovery Variance – Ontario Clean Energy Benefit Act”, using the Board’s prescribed interest rates. The off-setting debit interest amount is to be recorded in Account 6035, Other Interest Expense.

The Board expects that any principal balances in “Sub-account Financial Assistance Payment and Recovery Variance – Ontario Clean Energy Benefit Act” will be addressed through the monthly settlement process with the IESO or the host distributor, as applicable. The Board also expects that any request for review and disposition of associated carrying charges will be addressed as part of a distributor’s cost of service rate application and be subject to a prudence review at that time.

The balances in “Sub-account Financial Assistance Payment and Recovery Variance – Ontario Clean Energy Benefit Act” and in “Sub-account Financial Assistance Payment and Recovery Carrying Charges” should be reported quarterly, at the same time as filings are due in relation to the balances in other deferral and variance accounts under section 2.1.1 of the Board’s Electricity Reporting and Record Keeping Requirements, and should also be reflected in the trial balance filed under section 2.1.7 of those Requirements.

The Board has not been advised that system costs associated with implementation of the OCEB will be material for licensed distributors. The Board therefore anticipates that each distributor should be able to accommodate any such costs within its overall existing OM&A and/or capital budget. Should a distributor believe that its OCEB implementation costs are material, a Z-factor claim would be the appropriate mechanism by which to seek recovery of those costs. The filing requirements for Z-factor claims are set out in Chapter 3 of the Board’s Filing Requirements for Transmission and Distribution Applications, including the materiality threshold and eligibility criteria that must be satisfied before a Z factor application will be considered.

### **C. New Reporting Requirements**

To enable the Board to monitor the implementation of the OCEB, the Board will require

licensed distributors, licensed unit sub-meter providers and licensed retailers that use retailer-consolidated billing (together, the “licensed financial assistance providers”) to provide information as to the timing of the adaptation of their invoices for purposes of the OCEB. Each licensed financial assistance provider must comply with the following reporting requirements under the condition of its licence that requires it to provide information to the Board as the Board may require.

Each licensed financial assistance provider must file a letter with the Board, no later than **January 21, 2011**, that provides the following information:

- i. if the licensed financial assistance provider has already commenced to issue invoices that have been adapted to comply with the OCEB Act and the OCEB Regulation, the date on which compliant invoices were first issued; or
- ii. if the licensed financial assistance provider has not commenced to issue invoices that have been adapted to comply with the OCEB Act and the OCEB Regulation, the date on which the licensed financial assistance provider expects to commence issuing compliant invoices.

A licensed financial assistance provider referred to in paragraph (ii) above must also file a further letter with the Board:

- i. where applicable, promptly upon becoming aware that the implementation date referred to in its initial filing may be delayed, indicating the reasons for and anticipated length of the delay; and
- ii. within two business days of the date on which it commences to issue compliant invoices.

#### **D. Guidance Regarding Application of the OCEB**

##### *1. Consumers with Eligible Accounts*

Financial assistance is required to be provided to consumers with “eligible accounts”. The term “eligible account” is defined in section 2 of the OCEB Act, and is for all intents and purposes an account that meets the criteria for eligibility for the RPP as set out in Ontario Regulation 95/05 (Classes of Consumers and Determination of Rates) made

under the *Ontario Energy Board Act, 1998*. A consumer that meets the criteria for eligibility for the RPP is entitled to financial assistance under the OCEB Act even if (i) the consumer's distributor is exempt from rate regulation or (ii) the consumer has switched the account to an electricity retailer or to wholesale market pricing.

## 2. *"Base Invoice Amount" for Distributor and Retailer Invoices*

In the case of invoices issued by licensed distributors or licensed retailers, the financial assistance to be provided to a consumer with an eligible account is an amount equal to 10% of the "base invoice amount" for a billing period. The elements that comprise the "base invoice amount" are listed in section 3(1) of the OCEB Act, and the elements that are excluded from the "base invoice amount" are listed in section 3(2) of that Act. By way of exception, special rules pertaining to the composition of the "base invoice amount" for distributors that are not rate-regulated by the Board are set out in the OCEB Regulation.

While the elements of the "base invoice amount" are in most respects self-explanatory, the Board considers it desirable to provide the following guidance in relation to the component identified as the "commodity price of the electricity":

- i. The "commodity price of the electricity" includes the final RPP variance settlement amount, whether it is a debit or a credit. Where the final RPP variance settlement amount is a credit to the consumer, the distributor must reduce the amount by 10%.
- ii. In the case of a consumer that has a contract with a retailer for an eligible account, the "commodity price of the electricity" should be understood as the contract price. For this purpose, and subject to any exclusions set out in section 3(2) of the OCEB Act, the contract price is all amounts payable by the consumer under a contract with respect to the supply or delivery of electricity other than interest, penalties and cancellation charges or fees, and that that may be settled under the Retail Settlement Code. To be clear, the contract price is the price identified in the contract and billed to the consumer on account of the commodity, and is not the difference between that price and the wholesale market price.

In accordance with the OCEB Regulation, licensed retailers and licensed distributors may rely on information provided to one another in determining if a person is entitled to financial assistance and the amount of that financial assistance.

### 3. *Licensed Unit Sub-Meter Providers*

Licensed unit sub-meter providers must satisfy two distinct obligations in relation to the OCEB. The first is to flow through financial assistance that is provided to the “master consumer”, as defined in the Unit Sub-Metering Code, to the end-use consumer in a unit of a multi-unit complex (the “consumer” as defined in the Unit Sub-Metering Code). This obligation is set out in section 4(7) of the OCEB Act and section 4 of the OCEB Regulation, and is also reflected in section 4.0.1(1.1) of Ontario Regulation 161/99 (Definitions and Exemptions) made under the *Ontario Energy Board Act, 1998*. The obligation to flow financial assistance through to the end-use consumer is also required in order for an exempt distributor to maintain its exempt status under section 4.1 of Ontario Regulation 161/99. The second obligation is to provide financial assistance to the end-use consumer equal to 10% of the sum of the unit sub-metering “fees and charges” billed to the consumer and the amount of harmonized sales tax on those fees and charges. This obligation is set out in section 5 of the OCEB Regulation. The “fees and charges” to which this financial assistance applies are those for “unit sub-metering”, which by definition comprises only the following activities: (a) providing and maintaining unit sub-meters in a multi-unit complex, including billing and collecting payment in respect of the electricity consumed in the multi-unit complex and other associated and ancillary activities; and (b) any other activities required to be carried out by a unit sub-meter provider under Part III of the *Energy Consumer Protection Act, 2010*.

### 4. *General Record-Keeping*

Licensed distributors, licensed retailers and licensed unit sub-meter providers are reminded that, under section 8(2) of the OCEB Act, they are required to keep such records as are necessary to determine and verify compliance with that Act and the OCEB Regulations.

All filings to the Board must quote file number **EB-2011-0009**, be made through the Board’s web portal at [www.errr.oeb.gov.on.ca](http://www.errr.oeb.gov.on.ca), and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender’s name, postal address and telephone number, fax number and e-mail address.



Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca). If the web portal is not available you may email your document to the [BoardSec@oeb.gov.on.ca](mailto:BoardSec@oeb.gov.on.ca). The subject line of the email should state: "Licensee Name: OCEB Implementation EB-2011-0009".

Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file seven paper copies. If you have submitted through the Board's web portal an e-mail is not required. All filing are to be received by 4:45 p.m. on the required date

Any inquiries relating to this letter should be directed to the Market Operations Hotline at [market.operations@oeb.gov.on.ca](mailto:market.operations@oeb.gov.on.ca) or at 416-440-7604.

Yours truly,

*Original Signed By*

Kirsten Walli  
Board Secretary

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