

ONTARIO ENERGY BOARD

OEB Report

Review of Consumer Protection Framework for Customers of Unit Sub-Meter Providers

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Table of Contents

1. EXECUTIVE SUMMARY	2
2. BACKGROUND	3
2.1. UNIT SUB-METERING IN ONTARIO	3
2.2. CUSTOMER SERVICE RULES FOR USMPs	5
3. THE REVIEW	5
4. RAISING AWARENESS OF THE CONSUMER PROTECTION FRAMEWORK	7
4.1. WINTER DISCONNECTION AND RECONNECTION	8
4.2. APPLICATION OF RECONNECTION CHARGES	10
4.3. EQUAL MONTHLY PAYMENT PLANS	11
4.4. PERFORMANCE MEASUREMENT FOR USMPs	12
5. CONCLUSION	14

1. Executive Summary

This Report provides an overview of the Ontario Energy Board's (OEB) review (Review) of the consumer protection framework related to customers of Unit Sub-Meter Providers (USMP) in Ontario. The Report summarizes input obtained from stakeholders through surveys and targeted meetings and identifies actions that the OEB believes will strengthen the consumer protection framework for USMP customers.

The Review was undertaken further to two recommendations contained in the Office of the Auditor General of Ontario's 2022 Value-for-Money audit report entitled [Ontario Energy Board: Electricity Sector Oversight and Consumer Protection](#).

The Review assessed the potential to further align the customer service rules for USMPs with those applicable to electricity distributors, having regard to the OEB's legislative authority, and the circumstances of USMPs as competitive businesses and service providers under contract to unregulated entities. These unregulated entities include developers, building owners and condominium boards. The Review focused on the specific electricity distributor customer service rules that do not apply to USMPs; namely, the ban on winter disconnections, the application of reconnection charges, and equal payment programs.

Additionally, the OEB considered mechanisms to monitor USMP performance regarding customer service to provide consumers with an improved understanding of the USMP sector.

The OEB engaged a broad and diverse group of stakeholders and undertook research in conducting the Review:

- The OEB surveyed individual customers of USMPs and all licensed USMPs.
- Targeted meetings were held with representatives of USMPs, consumer groups, and groups representing property owners, managers, developers and housing services.

- A review of the regulatory and legislative frameworks for unit sub-metering in other jurisdictions was conducted to identify any best practices.

The primary theme that emerged from the OEB’s engagement work was that awareness of the current consumer protection framework among customers of USMPs could be improved. The OEB also learned that, while many consumers and consumer groups support full alignment of USMP customer service rules with those applicable to electricity distributors, they are less supportive of such alignment if it leads to increased costs for USMP customers. The OEB heard from several USMPs that they already have policies in place similar to the related rules with which electricity distributors must comply, including in relation to disconnection and reconnection during the winter period and the application of reconnection charges.

Based on the results of the Review, the OEB has concluded that there is a customer-protection benefit in taking steps to do the following:

- Increase customer awareness of the existing consumer protection framework for residential consumers of USMPs.
- Increase customer awareness of USMP policies relating to customer disconnection and reconnection during the winter period and the application of reconnection charges.
- Publish relevant USMP performance-related information.

2. Background

2.1. Unit Sub-metering in Ontario

Suite metering involves metering the electricity use of each individual suite or unit in multi-unit buildings and billing the account holders for the units directly based on their unit’s metered electricity consumption, rather than apportioning the building’s electricity costs on some other basis.

In Ontario, a building can obtain suite metering services from its electricity distributor as part of the distributor’s licensed distribution activities (known as “unit smart-metering”) or from a licensed USMP (known as “unit sub-

metering”). It is the developer, building owner, condominium board, landlord or other person authorized to retain a USMP for the building (referred to as the “principal consumer” in this Report and “master consumer” in the Unit Sub-Metering Code (USM Code)) that decides whether to obtain suite metering services from an electricity distributor or a USMP for the units in the building. Principal consumers are considered “exempt distributors” (i.e., they are not licensed or otherwise regulated by the OEB) so long as they continue to meet the conditions for exemption prescribed by regulation.

There are currently 25 licensed USMPs in Ontario, serving upwards of 470,000 consumers. Although USMPs provide services throughout the province, their focus on multi-unit buildings means they are most active in more densely populated urban areas.

Like electricity distributors, USMPs are licensed by the OEB, and must follow rules relating to customer service and other matters set out in the USM Code. USMPs are also subject to reporting requirements, as well as to the OEB’s compliance and enforcement processes. However, unlike electricity distributors, USMPs provide their services and apply their fees and charges based on their contracts with the principal consumer.

These contractual arrangements set out the services that the USMP will provide to the principal consumer as well as how those services will be provided, subject to the requirements in the USM Code and applicable legislation. The account holders for the individually metered units in the building inherit the pricing arrangements agreed to by the principal consumer. These pricing arrangements vary from one USMP to another but can include (among others) a recurring fee for the provision of metering and/or billing services, as well as fees for account set up, service disconnection and service reconnection. Unlike the rates charged by electricity distributors, the fees charged by USMPs are not regulated by the OEB.

For the cost of electricity service provided to the building as a whole, the principal consumer may only pass those costs on to the individual units without markup. This is a condition of maintaining their exempt status.

2.2. Customer Service Rules for USMPs

The OEB's rules for USMPs relating to customer service are, with a few exceptions, similar to those applicable to electricity distributors. For example, both USMPs and distributors must have a Conditions of Service document that customers can review to understand their USMP's operating practices and procedures, and other policies. Also, both must follow specific rules in respect of bill issuance and payment, security deposits, arrears payment agreements, and customer disconnection notice and process requirements. USMPs and distributors are also required to apply the Ontario Electricity Rebate to their customers' electricity bills, including the USMP fees. Eligible low-income customers of both USMPs and distributors may also receive financial assistance under the Low-income Energy Assistance Program (LEAP) and the Ontario Electricity Support Program (OESP).

However, there are some customer service rules applicable to electricity distributors that are not applicable to USMPs. Specifically, these are rules relating to the ban on winter disconnections for non-payment, equal monthly payment plans, and the timing of the application of reconnection charges where the customer had been previously disconnected for non-payment.

3. The Review

The OEB committed to undertaking the Review in its response to two recommendations made by the Auditor General of Ontario set out in the 2022 Value-for-Money audit report entitled [Ontario Energy Board: Electricity Sector Oversight and Consumer Protection](#):

- Identify mechanisms to align service standards that apply to USMP customers with those that apply to customers of electricity distributors, especially with respect to protection against winter disconnections and reconnections; and
- Develop and publish performance metrics for USMPs to provide customers with insight into USMP performance.

The OEB indicated that it would determine next steps following its review, having regard to its legislative authority and the specific circumstances of

USMPs as competitive businesses and service providers to unregulated principal consumers that make decisions regarding matters such as disconnection.

The Review focused on the three areas where the consumer protection framework for customers of USMPs differ from that applicable to customers of electricity distributors: customer disconnections and reconnections during the winter period, the application of reconnection charges, and the availability of equal monthly payment plans. The scope also included an assessment of appropriate performance measurement for the USMP sector.

The OEB engaged a broad and diverse group of stakeholders:

- Surveying 214 USMP customers via the OEB’s Consumer Panel to gain insights into their levels of awareness regarding the USMP sector and knowledge about the consumer protection framework, as well as their service level expectations generally.
- Surveying all 25 licensed USMPs on their implementation of the current consumer protection framework and the potential for alignment of that framework with the electricity distribution sector.
- Engaging with representatives of USMPs, consumer groups, and groups representing property owners, managers, developers and housing services via targeted meetings, in Spring 2024,¹ to:
 - Understand how customer service rules are currently implemented by USMPs.
 - Provide stakeholders with an opportunity to respond to questions and to comment on the customer service rules applicable to USMPs, and to hear their views on any proposed changes based on their experience with those rules.
 - Discuss potential performance measures for USMPs to provide their customers with insight into USMP performance.

The OEB thanks all stakeholders who participated in the Review.

¹ [OEB Letter regarding USMP review targeted stakeholder meeting invite](#)

The OEB also undertook a scan of jurisdictions across Canada, the USA, Europe, the UK and Australia. It did not find a regulatory or legislative framework directly comparable to that which applies to USMPs in Ontario. Results from the OEB's research and engagement activities are discussed in the sections below.

4. Raising Awareness of the Consumer Protection Framework

The OEB identified a general lack of awareness among USMP customers about the consumer protection rules and policies that currently exist to protect them. Customer awareness was a primary theme that arose across the OEB's various engagement activities.

Of the 214 USMP customers surveyed, the majority indicated they were unfamiliar with the OEB's current rules that are in place to protect them. More specifically, 75% were not aware that USMPs must offer arrears payment agreements, and 66% reported that they have no contact from their USMP other than in relation to paying their monthly bill.

In targeted stakeholder meetings, consumer groups and some condominium owner representatives expressed concern over their lack of awareness of the role of USMPs, the OEB's consumer protection rules for USMP customers, and the availability of LEAP and OESP to USMP customers. At least one consumer group expressed a willingness to work with the OEB to help raise consumer awareness levels.

Conversely, USMPs did not generally see the issue of consumer awareness as a major concern, noting that they use bill inserts and websites to communicate with their customers. Of the 25 licensed USMPs surveyed, 17 contact their customers at least once per year in relation to the consumer protection provisions applicable to them.

A robust consumer protection framework implemented by the OEB exists for the benefit of USMP customers. In the OEB's view, it is important for USMP customers to be aware of the rules that are in place to protect their interests and of the availability of financial assistance programs to help eligible

customers with their electricity bills. In October 2023, as a step towards that objective, the OEB launched a webpage dedicated to providing customers of USMPs with improved access to relevant information on the sector and the rules that exist to protect them.

The OEB concludes that, as an additional step, USMPs should be required to take measures to raise awareness amongst their residential consumers about the rules, programs and policies in place to protect them. The OEB also concludes that consumers would benefit from greater insight into USMP performance.

4.1. Winter Disconnection and Reconnection

Electricity and natural gas distributors are banned from disconnecting residential consumers for non-payment during the winter months, running from November 15th in one year to April 30th in the following year.² Distributors are also required to ensure that any occupied residential property that had been disconnected solely on the grounds of non-payment is reconnected by December 1st, and must waive any reconnection charge that might otherwise apply in respect of that reconnection.

The *Ontario Energy Board Act, 1998* authorizes the OEB to amend a USMP's licence to prohibit it from disconnecting residential consumers for non-payment at certain times, such as during a winter period. To date, the OEB has not imposed this obligation on USMPs, recognizing that it is the principal consumer that makes the decisions on disconnection for non-payment, and the principal consumer is not regulated by the OEB.

The survey results and targeted stakeholder meetings identified that USMP customers and consumer groups were in favour of aligning USMP rules with those for electricity distributors with respect to winter disconnection. Of the 214 USMP customers surveyed, 68% were in favour of pausing disconnection for non-payment during winter. However, only 20% were in favour of funding such a policy through increases in their USMP's fees and charges.

² The ban has been in place since the winter of 2017 for electricity distributors (now codified in the Distribution System Code) and since 2020 for natural gas distributors (codified in the Gas Distribution Access Rule).

Condominium owner representatives advised that there may be fairness issues to consider if such rules are mandated in the USMP sector. For example, the cost of one customer not paying their bill may eventually need to be absorbed by the other paying customers in the condominium building. This ensures that the monthly bill continues to be paid on behalf of the principal consumer to the distributor.

Several USMPs, which collectively serve approximately 98% of residential USMP consumers, advised that they already have policies in place related to disconnection for non-payment in winter that are similar to the rules for electricity distributors. However, it does not appear that these USMPs necessarily communicate such policies to their customers.

In considering the question of whether a winter disconnection ban should apply to USMPs, the OEB has considered the different legal and business contexts in which electricity distributors and principal consumers and USMPs, who are their service providers, operate. Decisions about customer disconnection policies are made by the principal consumer and may then be implemented by the USMP on behalf of the principal consumer, in accordance with their contractual arrangements. Requiring a winter disconnection ban for USMP customers would impose a rule on principal consumers who are not subject to licensing or regulation by the OEB. Principal consumers are ultimately responsible for ensuring that the electricity distributor's bill for electricity service to the building is paid on a monthly basis. An enforced period, where the principal consumer may not be able to collect the full costs of that service, may lead to financial concerns or possibly higher fees for the individual unit holders in the building. As noted above, the amounts of such fees are not regulated by the OEB.

The OEB commends USMPs that have adopted winter disconnection and reconnection policies that align with the regulatory obligations imposed on electricity and natural gas distributors and encourages those USMPs to maintain such policies. The OEB also encourages all remaining USMPs to establish and follow similar policies.

The OEB believes that it is important for USMP customers to be aware of their USMP's policies related to disconnection for non-payment and reconnection during the winter period. The OEB concludes that USMPs

should include in their Conditions of Service a description of their policies related to the disconnection for non-payment and reconnection of their residential consumers in the winter period.

4.2. Application of Reconnection Charges

Electricity distributors must adhere to rules related to the reconnection of residential consumers who have been disconnected for non-payment. For such consumers, reconnection charges may only be applied after service is reconnected, and for eligible low-income customers, the reconnection charges must be waived. There are no similar rules applicable to USMPs.

Of the 214 USMP customers surveyed, 54% were in favour of prohibiting the application of reconnection fees until after service reconnection had been established. However, only 26% of customers were willing to fund such a policy through increased USMP fees and charges that USMPs may apply to manage the risk of not collecting a reconnection charge from a reconnecting customer. The risks include delayed cash flow, increased non-collection rates, and higher write-off amounts.

The OEB notes that 12 of the 25 licensed USMPs have adopted policies similar to the rules that apply to electricity distributors in relation to the application of reconnection charges, and the waiving of such charges for low-income customers. While the OEB regulates reconnection charges for electricity distributors, the OEB does not do so for USMPs. Accordingly, the OEB is concerned that mandating this requirement at this time could impose an unnecessary regulatory burden on USMPs and an added financial burden on principal consumers, potentially resulting in higher reconnection charges and/or fees for unit holders. However, the OEB will continue to monitor the situation.

The OEB commends those USMPs that currently have policies in place that align with the regulatory obligations imposed on electricity and natural gas distributors in relation to the application and waiver of reconnection fees and encourages them to maintain such policies. The OEB encourages all remaining USMPs to establish and maintain similar policies. The OEB also believes that awareness of such policies among USMP customers is important and that USMPs should include in their Conditions of Service a

description of their policies related to the application of reconnection charges, including in respect of their eligible low-income customers.

4.3. Equal Monthly Payment Plans

An equal monthly payment plan is a payment option offered to a customer whereby the amount due on each bill is equalized over the billing periods in the year based on a forecast of the annual charges. The customer's account is reconciled annually based on the difference between the cost of the customer's actual consumption and the equalized monthly amount. This payment option helps customers by smoothing out costs that would otherwise vary, typically as a result of seasonal differences in consumption due to heating and cooling. Electricity and natural gas distributors are required to offer equal monthly payment plans to their residential and small business customers that meet certain eligibility criteria.

Consumers and consumer groups, and some condominium owner representatives were in support of having equal monthly payment plans available to USMP customers. Of the 214 USMP customers surveyed, 54% indicated that having an equal monthly payment plan was important to them. USMPs and some building owners advised that the benefits of equal monthly payment plans would not be as pronounced for USMP customers in multi-unit buildings as they may be for customers in single unit properties as there is, in their view, higher relative stability of bills for USMP customers in multi-unit buildings. To support this view, one explanation cited that in most multi-unit buildings, the cost of the building's central heating and cooling is typically shared equally among all units as part of the rent or condominium fees, rather than being included on the electricity bills of the individual units.

Currently, no USMP offers an equal monthly payment plan to their customers. The OEB heard that USMPs are concerned about increased costs associated with offering equal monthly payment plans to their residential consumers. USMPs advised that, since the total cost of electricity service at a building still needs to be paid in full each month to the electricity distributor, the principal consumer (or USMP, depending on their contractual arrangement) would have to cover any shortfall if equal payments from

individual USMP customers don't add up to the total amount, in any given month.

Given the comments on the stability of customer bills in multi-unit buildings and the potential for higher fees if equal monthly payment plans were to be offered, the OEB is of the view that it is neither necessary nor appropriate to require USMPs to offer these plans at this time.

4.4. Performance measurement for USMPs

As noted earlier, the Auditor General recommended that the OEB establish performance metrics for USMPs to provide customers with insight into USMP performance. In considering the kinds of performance reporting that could support and enhance consumer understanding of the USMP sector, the OEB also recognized the need to balance regulatory burden and cost, and to have regard to confidentiality or commercial sensitivity concerns.

Consumer groups and condominium owner representatives were generally in favour of a USMP scorecard³ and enhanced complaints reporting.

USMPs generally opposed any new reporting requirements and performance metrics both from a regulatory burden and an appropriateness perspective due to the competitive nature of the business. USMPs noted that the current scorecard for electricity distributors makes sense for regulated monopolies that do not compete for customers but the same is not true for USMPs. In their view, the key indicator of USMP performance is retention of principal consumers.

Of the licensed USMPs that were surveyed, 12 advised that they have some form of key performance indicators (KPIs) in place. However, the OEB also heard that, due to the competitive nature of the sector, USMPs do not wish to make their KPIs public. The OEB also understands that USMPs who serve only a relatively small number of customers are less likely to have KPIs in place. Overall, there does not appear to be a standard approach among

³ A list of performance metrics under which all USMPs would be assessed a performance rating, similar to that which exists for electricity distributors: [Electricity utility scorecards | Ontario Energy Board \(oeb.ca\)](https://www.oeb.ca/electricity-utility-scorecards)

USMPs in respect of how they measure their performance or their customers' satisfaction.

The primary objective of any new measure or reporting is to offer USMP customers insight into USMP performance. However, additional reporting costs incurred by USMPs may lead to increased fees for customers, as USMPs are unable to recover these costs by other means. A key theme that emerged through the Review is that USMP customers generally do not favour additional measures if the result is an increase in the fees and charges that they must pay. This input underscores the importance of adopting a balanced approach so that USMP customers receive useful performance-related information without facing new financial burdens.

The OEB considered the value of putting in place a scorecard similar to the electricity distributor scorecards, which track year-over-year performance on certain metrics for each electricity distributor in Ontario. However, given the current lack of standardization in the USMP sector's approach to KPIs, the costs associated with establishing a standardized framework and concerns about sharing commercially sensitive performance information which could impact USMPs in the competitive market, the OEB has determined it will leverage its existing USMP consumer complaints data. This approach avoids imposing additional regulatory burden on USMPs or additional costs on USMP customers while providing a more standardized approach to performance measurement.

Currently, the OEB publishes data on the top five complaint categories (billing, disconnection, customer satisfaction, meters, customer accounts.)⁴ Publishing this data on a per USMP basis (presented as a proportion of customer numbers) enhances insight into USMP performance with no increase in regulatory burden or cost to the sector or USMP customers.

The OEB will leverage existing OEB data to enhance complaints reporting.

This will include:

- Reviewing current categorization of complaints to ensure appropriateness for the USMP sector.

⁴ [Complaint statistics | Ontario Energy Board \(oeb.ca\)](https://www.oeb.ca/complaint-statistics)

- Publishing, on an annual basis, per USMP customer complaints data to ensure customers know how their USMP is performing in terms of the number of complaints received by the OEB.
- Presenting the data as a proportion of customer numbers, given the variance in USMP customer numbers.

The first enhanced consumer complaint data will be posted on the OEB's website in 2025.

5. Conclusion

In the OEB's view, it is important for USMP customers to be aware of the robust consumer protection framework that exists to protect them. Following an extensive review of the sector and consultation with a diverse group of stakeholders, the OEB has found that the level of awareness among customers needs to be improved.

The OEB will therefore propose amendments to the USM Code to raise awareness among USMP customers of the rules, policies and programs that are in place to protect them and introduce enhanced complaints reporting to provide customers with insight into USMP performance.