



BULLETIN

DATE ISSUED: December 6, 2019

To: All Licensed Electricity Distributors
All Licensed Unit Sub-Meter Providers
Independent Electricity System Operator
All Other Interested Parties

Re: Implementing the New Ontario Electricity Rebate

This Bulletin provides guidance to electricity distributors and others on the new Ontario Electricity Rebate, which replaced the 8% Provincial Rebate on November 1, 2019. This Bulletin supplements the guidance provided on [October 25, 2019](#).

Background

On November 1, 2019, amendments to the [Ontario Rebate for Electricity Consumers Act, 2016](#) (ORECA) and its associated regulations¹ came into force. The former 8% Provincial Rebate has been renamed the Ontario Electricity Rebate (OER). The amount of the rebate increased from 8% to 31.8% of the base invoice amount and the eligibility requirements for the rebate have been revised.

The Ontario Energy Board (OEB) issued a [guidance letter](#) on October 25, 2019, which explained the new eligibility requirements (including the new notice requirement for “multi-unit complexes”), the transitional provision, and the new rules for displaying the rebate, as well as the new “Total Ontario Support” message, on a customer’s bill.

¹ [O. Reg. 363/16 \(General\)](#) and [O. Reg. 364/16 \(Invoicing Requirements\)](#). Related amendments were also made to [O. Reg. 275/04 \(Information on Invoices to Certain Classes of Consumers of Electricity\)](#) under the *Ontario Energy Board Act, 1998*.

The letter required electricity distributors to file a letter with the OEB by December 9, 2019 with a status report on implementing the OER. The letter also required electricity distributors and unit sub-meter providers (USMPs) to confirm by February 7, 2020 that they have commenced issuing bills that have been adapted to comply with the new OER labelling requirements and the “Total Ontario Support” message.

In the weeks since the changes to the rebate came into force on November 1, 2019, OEB staff has received a number of questions from electricity distributors, consumers and others about the new rules. This Bulletin addresses some of those questions.

Eligibility for the OER

For an overview of the new eligibility requirements, stakeholders are referred to the OEB’s October 25, 2019 letter. The details are set out in the General Regulation under ORECA.

Under the General Regulation, an account qualifies for the OER if the consumer has a demand for electricity of 50 kilowatts or less, or the consumer annually uses not more than 250,000 kilowatt hours of electricity, regardless of the type of building or property the account relates to.² In determining whether a consumer falls above or below the 50 kilowatt and 250,000 kilowatt hour thresholds, the General Regulation does not require any adjustment for line losses.

Although some kinds of multi-unit complexes, such as hotels, hospitals and universities, are specifically excluded from eligibility if they exceed those demand and use thresholds,³ they qualify if they do not exceed the thresholds. There is also no requirement under the eligibility requirements for anyone to be residing at the place the account relates to, thus an account relating to streetlights, for example, would qualify if the thresholds are not exceeded.

There have been questions regarding the treatment of the “common area” account in multi-unit complexes where the distributor directly meters the individual units and the “common area” account has its own meter. In this case, the common area would not qualify for the OER, unless it has a demand of less than 50kW or uses less than 250,000 kWh a year.

² General Regulation, s. 1.1(1).

³ General Regulation, s. 1.1(2).

Some distributors have enquired as to how they should determine if the January 31, 2020 deadline has been met for customers to provide notice to their electricity distributor.⁴ In OEB staff's view, what matters is when the notice is actually received by the distributor. As the October 25, 2019 letter noted, "In order to minimize the potential for disputes between distributors and their customers over when the notice was actually delivered, distributors are encouraged to accept the notice by e-mail or other electronic means." OEB staff would consider an e-mail with a time stamp any time before February 1, 2020 to be on time, even if the distributor does not open the e-mail until some time afterward. Similarly, a notice received by the distributor via post prior to February 1, 2020, would be considered to have been received on time, regardless of whether the distributor actually opened the mailed notice later.

The Transitional Provision (Section 1.2 of the General Regulation)

Customers who were receiving the 8% Provincial Rebate on October 22, 2019 but who do not meet the new OER eligibility requirements are entitled to receive the OER until October 31, 2020 if they submit the required notice by January 31, 2020, or until January 31, 2020 if they do not submit the notice.⁵ The question has arisen whether a customer who had requested the 8% rebate before October 22, 2019, but who did not actually receive the first bill reflecting the rebate until after October 22, 2019, would be considered to have been "receiving" the rebate on October 22, 2019.

In OEB staff's view, the answer is yes, unless the distributor (or other electricity vendor, as the case may be) determines that the customer did not in fact meet the eligibility requirements for the 8% rebate. Thus, a distributor may do an assessment of the customer's request. Even if that assessment was not completed until after October 22, 2019, the customer would be considered to have been receiving the rebate on October 22, 2019, provided the customer's eligibility is confirmed. In OEB staff's view, this interpretation recognizes that customers cannot control when electricity bills will be issued. It would not be fair if two virtually identical customers, both served by the same distributor, submitted a declaration form on, say, October 1, 2019, and one customer got the benefit of the transitional provision but the other did not, simply because one customer's bill was issued on October 21 and the other's was issued on October 23.

⁴ The January 31, 2020 deadline applies to (a) customers who were receiving the 8% rebate on October 22, 2019, but do not meet the revised eligibility criteria, who wish to continue receiving the OER until October 31, 2020, pursuant to the transitional provision; and (b) customers with an account relating to a multi-unit complex that meets the new eligibility criteria.

⁵ General Regulation, s. 1.2.

Another question OEB staff has received is whether a consumer whose load profile changes after November 1, 2019 but before February 1, 2020, such that it no longer meets the OER eligibility requirements, may benefit from the transitional provision. For example, if a grocery store was receiving the 8% Provincial Rebate for the sole reason that it had a demand under 50 kW, and its demand increases above 50 kW as of January 1, 2020, would it be entitled to the OER until October 31, 2020 as long as it submitted the required notice? OEB staff's view is that the answer is no. The transitional provision only applies to consumers who were receiving the rebate but who are no longer eligible "as of November 1, 2019". The grocery store, which actually remained eligible on November 1, 2019 and for some time afterwards, is not captured. Just like under the rules prior to the recent amendments, when a distributor identifies that a change in a customer's demand or usage has caused the customer to lose its entitlement to the rebate, the distributor should make the necessary change to its billing system (and conversely, where a change in demand or usage brings a customer who did not previously qualify into eligibility, the distributor should begin applying the rebate to the customer's bill).

Retroactive Payments to Consumers

The ORECA and General Regulation establishes certain limitation periods for receiving the rebate. Before November 1, 2019, section 15(1) of the General Regulation under ORECA said, "The limitation period for the purposes of subsection 6(1) of the Act is 24 months from the date of issuance of the invoice in which the financial assistance was not provided."

OEB staff's view was that the 24-month limitation period meant that a customer who should have been receiving the rebate, but was not, was entitled to a retroactive payment of up to 24 months' worth of the rebate. Thus if a distributor discovered in February 2018 that a homeowner was eligible for the rebate when ORECA came into force on January 1, 2017 but did not receive the rebate on the bill from the distributor, the distributor was required to provide a retroactive payment of 13 months' worth of the rebate. If a distributor discovered in July 2019, that a homeowner was eligible for the rebate since January 2017, the homeowner would be entitled to only 24 months' worth of the rebate, even though the homeowner had missed out on 30 months. The distributor in turn would recover the retroactive amount from the Independent Electricity System Operator (as long as the claim for reimbursement was made within six months).⁶

⁶ General Regulation, s. 15(2).

Under OEB staff's interpretation, it did not matter who, if anyone, was at fault for the missed payments. For instance, even if the distributor had no way of knowing that a customer qualified for the rebate, it would have to provide a retroactive payment for the period the customer did not receive the rebate (up to the 24 month maximum) upon learning that the customer was eligible.

Section 15(1) of the General Regulation was amended effective November 1, 2019 to read as follows:

15. (1) The following limitation periods are prescribed for the purposes of subsection 6 (1) of the Act:

1. In the case of financial assistance to which a consumer was entitled before November 1, 2019, 24 months from the date of issuance of the invoice in which the financial assistance was not provided.
2. In the case of financial assistance to which a consumer is entitled on or after November 1, 2019,
 - i. 12 months from the date of issuance of the invoice in which the financial assistance was not provided, in the case of financial assistance under this Part, and
 - ii. 24 months from the date of issuance of the invoice in which the financial assistance was not provided, in the case of financial assistance under Part II.

Paragraph 1 of the provision means the rule that was in effect before November 1, 2019 continues to apply to the period before November 1, 2019. A customer who met the pre-November 1 eligibility criteria but was not receiving the 8% Provincial Rebate can come forward after November 1 and receive a retroactive payment. That is so even if the customer does not meet the revised eligibility criteria that took effect on November 1. The maximum length of time for which the rebate can be paid retroactively remains 24 months.

Paragraph 2 of section 15(1) applies to rebates a customer is entitled to on or after November 1, 2019. For customers of remote unlicensed distributors, the limitation period is 24 months. For all other customers, the limitation period is 12 months.

In OEB staff's view, the 12 month limitation period must not be interpreted in a way that frustrates the purpose behind the new notice requirements for multi-unit complexes. Under section 1.1 of the revised General Regulation, a multi-unit complex that has a demand above 50 kW and annual consumption above 250,000 kWh must submit a notice containing the prescribed information in order to begin receiving the 31.8% rebate. Section 1.3(5) specifies that the notice takes effect (a) on the first day of the

billing period in which it is given, if it is given at least 11 days before the expiry of that billing period; or (b) on the first day of the billing period following the billing period in which it is given, if it is given less than 11 days before the expiry of that billing period. That is, the distributor (or other electricity vendor) is not required (or permitted) to begin applying the rebate to the account of a multi-unit complex that exceeds the demand and consumption thresholds until after receiving the notice. If, for example, a new apartment building that meets the eligibility requirements for the 31.8% rebate opens on January 1, 2020 but, for whatever reason, the building does not submit the notice until June 1, 2020, the building would begin receiving the rebate on the June bill (assuming the billing period is the calendar month). The building could not claim a retroactive payment going back to January 1, 2020.

It is the distributor's responsibility (unless the customer is billed by an electricity vendor other than the distributor) to identify customers who are eligible for the OER – other than those customers with accounts relating to a multi-unit complex that is above the demand and use thresholds, who must submit the notice in order to begin receiving the OER. If a distributor does not identify such a customer as being eligible, and therefore does not apply the rebate to the customer's bill, the distributor must correct the matter by making a retroactive payment upon becoming aware of the oversight. The retroactive payment cannot cover more than 12 months (or 24 months for customers of remote unlicensed distributors).

The views expressed in this Bulletin are those of OEB staff and are not binding on the OEB. Any enquires regarding the Bulletin should be directed to the OEB's Industry Relations e-mail address at IndustryRelations@OEB.ca.