

April 16, 2010

Dana Richardson
Interim Deputy Minister
Ministry of Municipal Affairs and Housing
Province of Ontario
777 Bay Street, 17th Floor
Toronto, ON M5G 2E5

Re: Comments regarding Bill 235 Regulation Discussion Paper

Dear Ms. Richardson,

Thank you for the opportunity for staff of the City of Toronto to provide comments on the Regulations Consultation Paper, March 2010, with respect to Suite Metering Provisions under the *Residential Tenancies Act, 2006* and the proposed *Energy Consumer Protection Act, 2009*.

Our responses are set out in the attached document. Please note that these are staff positions, and while they are consistent with past positions of Council, this submission has not yet been approved by Council. We are submitting it in advance of consideration by Council in view of the very limited time available for making the submission.

I would also like to extend my appreciation for the meeting held between City staff and Provincial staff on April 8, 2010 as part of a formal consultation process pursuant to the Toronto-Ontario Cooperation and Consultation Agreement. As the City and the Province have many shared policy objectives, including those related to poverty, affordable housing, protection of vulnerable tenants, energy conservation and climate change, it is appropriate that staff meet early in the policy development process to discuss matters of concern to both our governments.

Thank you for the opportunity to submit these written comments. We look forward to further discussions once the draft Regulations have been prepared. If additional information is required about the attached submission, please contact Katherine Chislett, Director, Housing & Homelessness Supports & Initiatives at (416) 397-0260.

Regards,



Phil Brown
General Manager
Shelter, Support and Housing Administration

c.c.

Mayor David Miller, City of Toronto
Joseph P. Penachetti, City Manager
Sue Corke, Deputy City Manager, City of Toronto

Fareed Amin, Deputy Minister, Ministry of Energy and Infrastructure
Marg Rapport, Deputy Minister, Ministry of Community and Social Services

CITY OF TORONTO SUBMISSION ON BILL 235 REGULATION CONSULTATIONS

INTRODUCTION

The City of Toronto has previously made submissions with respect to Bill 235, the Energy Consumer Protection Act:

- Submission by City Manager to Joanne Anderson, February 5, 2010
- Submission by Mayor to Standing Committee on General Government, March 24, 2010

In those submissions, a number of recommendations were made for amendments to the proposed legislation to help better achieve the goals of tenant protection and conservation. From the most recent version of Bill 235, we understand that the changes recommended by the City of Toronto have not been accepted.

Our submission on the Regulation Consultation Paper is confined to commenting on the regulations, and not to the proposed enabling legislation. We believe that the amendments recommended to Bill 235 would have significantly improved the Bill. As our submissions herein are limited to the regulations proposed within the current framework of Bill 235, we remain concerned that Bill 235 could go further in achieving its goals by including programs and further amendments to the *Residential Tenancies Act, 2006* aimed at additional incentives to achieve energy conservation while protecting rental affordability.

As such, we urge the Province to ensure that programs in support of energy conservation be introduced in tandem with the new law. Such programs would include:

- incentive programs for landlords to fund capital work aimed at energy conservation
- incentive and education programs for tenants who pay for electricity to help them reduce energy use
- information supports for tenants and landlords to understand their rights and obligations with respect to Bill 235, and in particular to help ensure tenants have the best information possible when deciding whether or not to consent to paying separately for electricity
- ensuring that rules for suite meter providers in private rental housing are in place when Bill 235 becomes law, including a code of conduct and requirements for customer service, limitations on administrative fees and security deposits.

With particular reference to low income tenants, we recommend that the Province should introduce a program in tandem with the new law to help low income energy consumers as a precondition for permitting any suite metering. The program would need to comprise of four elements:

- temporary financial assistance for energy bill payment;
- tailored customer service measures;
- targeted conservation and demand management programs; and
- a broad-based rate affordability program for low-income customers.

The rationale for this recommendation is as follows:

- Energy efficiency programs and consumer education initiatives may reduce the amount of energy used by low-income households and, subsequently, their energy bills.
- Energy prices are expected to rise significantly over time, exacerbating the energy burden on low-income households. Energy poverty is also expected to increase as many tenants' rents will cease to include utilities due to suite metering. Considering the reality of circumstances facing many people living with low-income (such as insecure work, fluctuating income, and short-term financial emergencies) it is important to note that even with energy conservation and efficiency programs, there will still be a need for a permanent, adequately funded, and accessible emergency energy fund.
- Customer service rules are required to address matters associated with service provided by suite metering service providers specifically to low-income customers, including: bill payment and arrears management; the correction of billing errors; equal billing; security deposits; disconnection for non-payment; re-connection fees; and the opening and closing of accounts.
- There should be a standard set of criteria for low-income conservation and demand management programs that will streamline the regulatory approval process for the low-income conservation and demand management programs by Ontario's local distribution companies.

A broad-based ratepayer-funded rate affordability program may be an appropriate "method or technique" to achieve just and reasonable rates for low-income consumers. Alternately, enhancements to income support programs to ensure energy security may be required.

I IMPLEMENTATION OF SUITE METERS IN RENTAL BUILDINGS

1.0 ENERGY EFFICIENCY STANDARDS

Standards for Appliances

1. What appliance standards should be in place to support a tenant's ability to conserve electricity?

We recommend the EnergyStar rating as the minimum standard for appliances provided by landlords. The regulations should be worded in such a way so as to permit regular updating of the standard as the EnergyStar ratings are not fixed.

EnergyStar is appropriate as it is well known and accepted as a standard, and rated appliances are easily purchased in the general marketplace. Further, OPA electricity conservation grants are available only for EnergyStar rated appliances (OPA Bulletin 2009-0111).

Options will be needed for appliances which may be required to be upgraded under the regulations, for which there is no EnergyStar rated appliance. For example, smaller EnergyStar rated refrigerators may not be available.

2. For which appliances should standards be set?

To maximize energy savings, all landlord supplied appliances should be updated to EnergyStar standards. However, requiring such upgrading could result in unaffordable rents. Therefore, we recommend that the appliances selected for the regulation should be based on a general cost benefit analysis.

The cost benefit analysis would consider the extent to which the potential electricity savings for the tenant from the upgraded appliance would offset the potential rent increase. Those appliances which would break even, or financially benefit the tenant, should be required as a condition of suite metering. It is understood that the cost benefit analysis would be general in nature, as at the unit level, there would be variations depending on such things as rent levels.

City staff with expertise in conservation suggest that landlord supplied refrigerators and window air conditioning are two appliances with some potential to generate savings sufficient to offset potential rent increases.

In addition, we recommend that lighting fixtures be considered. While not appliances, there may be potential for electricity savings.

Energy Efficiency Standards – Units & Buildings

- 1. What unit standards should be in place to support a tenant's ability to conserve electricity?**
- 2. How would we ensure that these standards could be achieved and managed without high costs to landlords and tenants?**

We have not recommended unit standards. Sufficient standards have not yet been established, and the high cost of improving units may be too expensive for landlords and may cause rents to be unaffordable.

We acknowledge that unit (and building) conditions do impact on electricity use. At the unit level, some tenants have submitted that when the building envelope is poor, they may need to turn on the stove and use electric heaters in the winter to stay warm and make greater use of window air conditioners in the summer to stay cool. Thus, the energy efficiency of the building, and poor HVAC systems, can drive up tenant electricity costs and energy waste. The most significant contribution to electricity conservation in rental buildings comes from addressing building envelopes and undertaking other major capital work aimed at reducing leakage.

However, requiring that landlords undertake significant and costly capital projects could reduce rental affordability. It is unlikely that electricity cost savings to suite metered tenants would be sufficient to offset such rent increases, however, MMAH and MEI may wish to undertake analysis on this point.

If rents are reduced for sitting tenants based on 12 months of actual use, as we recommend later in this submission, variances in the electricity burden of specific units should be reflected in the reductions. As such, requiring major conservation improvements is not necessary to help tenants reduce costs.

There are significant opportunities to conserve electricity use in rental buildings, and these should be explored as part of our shared objective to reduce electricity use and green house gas emissions. In particular, major incentive programs to fund the large numbers of high-rise residential concrete frame buildings built in Toronto and in other Ontario cities between the late 1950s and early 1970s should be implemented. Using grants will help ensure that rent increases are limited as such grants offset the rent increase that would otherwise be permitted.

- 3. Under what circumstances and conditions should landlords of electrically heated buildings be allowed to terminate the obligation to provide electricity as a service included in rent and transfer the costs of electricity to the tenant?**

Where the unit is electrically heated, the electricity costs are significantly higher than for units which only rely upon electricity for appliances and light fixtures. As such,

whatever requirements are introduced for the estimated 9% of rental units in Ontario that are electrically heated could have major impacts on housing affordability.

With respect to electricity conservation, we are concerned about the split incentive. Where electric heat payments are a tenant responsibility, there is no incentive to the landlord to change to a better system, whether for sitting tenants or upon turnover of the unit.

We recommend that transferring electricity costs to sitting tenants in electrically heated buildings should not be permitted. We have not seen any research or cost benefit analysis which demonstrates that potential electricity cost savings would offset potential rent increases or the very real risks of substantive future increases in electricity costs. Tenants in electrically heated units have very little control over heat in their units as heat use is greatly impacted by building and unit conditions. Alternately, such a transfer may be feasible if incentive programs funded major building and unit upgrades.

Upon turn-over of the unit, transfer is permitted under the *Residential Tenancies Act, 2006*. Our preference is that such transfer not be permitted; however, it appears that Bill 235 does not include provisions to limit such transfers. Therefore we recommend that the regulations ensure that the prospective tenant receives sufficient information about electricity costs for the unit prior to entering into a tenancy agreement.

4. How would we ensure that rental unit energy efficiency standards could be easily verified by the LTB?

If rental unit energy efficiency standards are required as a condition of suite metering, at a minimum we suggest that a building energy and condition audit conducted by an independent third party be provided by the landlord to demonstrate and affirm that such standards have been achieved. One model may be the evaluation and verification procedures used by the City of Toronto's Better Buildings Partnership, based on standard engineering practices and guidelines of the International Performance Measurement and Verification Protocol.

Information supports will be needed as tenants may not always be able to interpret lengthy and technical documents. As such, we also recommend a plain language form be approved by MMAH or the LTB that summarizes key information from the audit that would be useful to the tenant.

5. What other conservation requirements should landlords meet if they install suite meters?

Landlords should be required to regularly maintain the building (in particular, HVAC systems) and replace appliances to ensure that the EnergyStar standard is met.

6. What standards should apply to units that have already implemented meters or suite meters?

Any energy efficiency standards to be adopted should be applied to units that have already implemented meters. This will assist tenants currently paying separately for electricity to reduce electricity use, provided that the standards selected are based on a cost benefit analysis. A specific timeline for implementing the standards should be established (for example, within 1 year of the Act coming into force).

2.0 RENT REDUCTIONS

1. How should rent reductions be calculated?

The provisions in the proposed regulations pertaining to rent reductions will especially impact on specific sitting tenants. New rents are negotiated between the landlord and incoming tenants, and the level depends on a great many factors, including primarily the prevailing rental market conditions.

With respect to sitting tenants, we believe the key principle to be used in deciding how to calculate the rent reduction is that the housing cost a tenant pays before the electricity transfer (rent) should be equivalent to or greater than the housing cost that tenant would pay after the transfer (reduced rent + electricity charges).

This is best achieved by requiring a rent reduction that reflects the tenant's actual use, rather than an average for the building or unit type. Further, the reduction should be based on the previous 12 months of actual use for that unit (the tenant would need to have occupied the unit for at least 12 months in order to meet this condition, and the suite meter would need to be installed).

In addition, the rent should be reduced to reflect anticipated administrative charges and other fees related to the suite meter billing (for example, not based on the prior 12 months of costs, but on the expected charges and fees after the electricity cost transfer in the event they are higher).

The regulations should establish a minimum. Landlords should be permitted to exceed this minimum.

Revision applications by tenants should be permitted where actual electricity costs and/or administrative fees are significantly higher in the year after transfer, exceeding the data used to determine the rent reduction originally provided (see section 3.0).

2. Should HST be factored into the rent reduction calculations?

We recommend that HST be factored into the rent reduction calculations.

3.0 REVISIONS TO RENT REDUCTIONS

1. In what circumstances should tenants be able to request revisions to their rent reductions?

As a basic principle, we suggest that tenants be able to apply to the LTB to revise the rent reduction for any purpose.

Tenants should have at least a twelve-month window in which to collect data about their electricity use before applying, suggesting that the application deadline should be no earlier than 18 months after the transfer occurs. This would permit the tenant to compare a year of paying for electricity to the previous year upon which the rent reduction calculation was based (see recommendation in section 2.0 question 1).

If an alternate method of calculating the rent reduction were used, such as a reasonable allocation method (based on square footage or unit type rather than actual use of the tenant) the need for revision applications would increase. At a minimum, the regulations should be requiring a comparison which reflects a full year to cover all seasons.

2. What would be the appropriate time period within which tenants could request landlords to adjust their rent reductions and apply to the LTB?

We would recommend that the application deadline be no less than 18 months after the transfer. This provides sufficient time to get at least one year's worth of data about a tenant's actual use following a transfer, and to submit an application.

We would also recommend that provisions be included for undue hardship and extenuating circumstances. An example would be where the bills were very late and the tenant was not able to collect 12 months worth of billing information by the deadline, or where errors in the bill were discovered more than 18 months after the transfer.

4.0 DISCLOSURE TO TENANTS

Disclosure to Sitting Tenants

The regulations in this section relate to sitting tenants, and the information they would require as a condition of making an informed consent to removing electricity as a service included in the rent.

1. What information should landlords be required to provide to tenants?

The Consultation Paper suggests the following:

- Date when the tenant will start paying for his/her own electricity consumption

- Amount of rent reduction, the new reduced rent that the tenant will pay, and a description of how the calculations were made (including how electricity for common areas is accounted for in the reduction)
- Information outlining the energy efficiency of appliances provided
- Information about the tenant's ability to revise agreements
- The name and contact information of the suite meter provider that will generate the tenant's electricity bill
- All applicable fees that will be charged for electricity by the suite meter provider, e.g. distribution charges, administration charges, late payment charges and meter fees
- The suite meter provider's security deposit policy
- The suite meter provider's policies regarding disconnection and reconnection
- Contact information of the OEB

The principle which should be applied in deciding what information must be included in the disclosure to sitting tenants is that tenants receive as much information as is reasonable, in a format that they could reasonably be expected to understand and draw conclusions from with respect to their specific situation without requiring expert advice, in order to make an informed decision. As such, in addition to those items set out in the Consultation Paper, we would recommend that the following information be included:

- A full audit of building and unit, with a brief, plain-language summary of the audit provided on a standard form drafted by the Province. This would be imperative if building and/or unit standards were required as a condition of suite metering in order to demonstrate that standards are achieved. In addition, providing this information would be consistent with the August 13, 2009 decision of the OEB respecting suite metering of private rental buildings.
- A clear, plain-language statement that a tenant may refuse suite-metering, and information about what they may do if they believe they are being forced into accepting the transfer of electricity costs. Including this information on a regulated form would be the most effective way to ensure that this requirement is achieved.
- A clear, plain-language statement explaining that once a tenant has given consent, they may not then rescind such consent. The statement should also advise that the tenant may not be required to give consent immediately when asked, but may take time to consider the matter further and seek such advice as they feel appropriate. Including this information on a regulated form would be the most effective way to ensure that this requirement is achieved.
- In addition to the suite meter provider's security deposit rules, information about things that the landlord will do to assist the tenant in meeting these requirements

in order to help address any financial barrier a tenant may have in agreeing to suite metering.

- In addition to information about the suite meter provider's fees, the landlord should provide information about the contract he or she has entered into with the suite meter provider, including the length of time remaining in the contract, and any fee escalations or electricity cost escalations which may be built into that contract.
- Advising tenants that they may take advantage of cost savings from time of use pricing when available, and committing to provide notification when time of use pricing comes into effect or requiring the suite meter provider to provide such notification.
- Proof that the suite meter provider has been licensed by the OEB. If there is a code of conduct or licensing rules established for suite meter providers as we have recommended, information on the rules and to whom tenants may complain.
- Contact information for emergency energy assistance so that tenants know who the contact (landlord or suite meter provider) in the event of electricity disruption.

Disclosure to Prospective Tenants

The vacancy decontrol provisions of the *Residential Tenancies Act, 2006*, permit the prospective tenant and landlord to negotiate the rent and the utilities included in the rent. The principle which should guide decisions on what information to be provided to prospective tenants is to ensure they have sufficient information to make a reasonable determination of how much their housing costs will be (rent + electricity) should they agree to lease the unit. It is not in the interests of tenants or landlords for tenants to lease a unit they cannot afford. The information disclosed should be sufficient to assist them in negotiating a rent they can afford, or in making a decision to rent elsewhere.

1. For what time period should electricity consumption information be provided?

We recommend that electricity consumption information be provided, at a minimum, for the most recent twelve-month period for which data is available, but not more than eighteen months prior to the date the prospective tenant would take occupancy of the unit. The consumption information would be based on the actual electricity use for the unit and all related fees charged to the unit.

As the household size may impact actual use, we recommend that information also be provided to the prospective tenant about the household size, and also consumption information from comparable units in the building for different household sizes.

We understand that MEI may need to provide assistance in ensuring landlords are able to access such consumption information, and recommend that personal information about the prior tenant be removed from this information.

2. What other information should landlords be required to provide to prospective tenants?

See Disclosure to Existing Tenants Above

3. Under what circumstances could landlords be exempted from providing the information to prospective tenants of a suite-metered unit?

If the suite meter is installed, however, the landlord intends to include electricity in the rent and not bill separately, disclosure would not be required to the prospective tenant. If subsequent to leasing the unit the landlord decides to request that electricity be removed from the rent, then the tenant would be protected by all of the provisions that apply to a sitting tenant, including our recommendation that the tenant occupy the unit for at least 12 months before permitting transfer of electricity.

4. Should landlords of units that have been historically directly metered or suite metered be exempted from these requirements?

We recommend that no exemptions be permitted. Bill 235 should protect all tenants of metered units. In particular, disclosure rules and rent revision rules should apply to sitting tenants where electricity was transferred prior to enactment of Bill 235 to ensure compliance with the OEB decision of August 12, 2009, and the enhanced protection set out in Bill 235.

5.0 TENANT'S APPLICATION FOR BREACH OF LANDLORD OBLIGATIONS

Under what circumstances should tenants be allowed to make an application to the LTB for an order determining whether their landlord has breached any of their obligations?

We recommend that there be no barriers in making an application.

Information about potential breaches should be made available to tenants, perhaps through a pamphlet and posting on the LTB website. Such information should include examples and information about the types of situations which may constitute a breach and the types of evidence that a tenant may wish to gather to support their application.

6.0 NOTICES BY LANDLORD

1. What should the notice period be for interruption in electricity service to install a suite meter?

We recommend that the notice period be a minimum of 24 hours. Tenants should be permitted an opportunity to request an alternate time where there are health and safety

concerns and the additional time is needed to make alternate arrangements. This is particularly relevant where a tenant is elderly or is dependent on electricity for medical reasons.

The notice should include information about the estimated time-frame of the interruption, and the anticipated length of the interruption. In addition, it should include contact information for someone the tenant may call if any problems arise in their unit as a result of the interruption.

2. What should the notice period be for terminating the obligation to provide electricity service?

Where the tenants have properly consented, the notice period of a minimum of 30 days should be adequate.

7.0 AUTHORIZATION OF SUITE METER INSTALLATION AND USE OF SUITE METERS FOR BILLING

What buildings or types of properties could be exempted from the mandatory requirement to install suite meters in (new) buildings under construction?

We understand that Bill 235 will permit or require the installation of suite meters, however, it will not require their use for billing purposes – landlords and tenants may agree to retain electricity as a utility included in the rent.

There is a capital cost associated with suite meters, and this cost is usually recovered through administration fees attached to electricity bills from the suite meter provider. If the tenants are not billed, the housing provider is limited in their ability to recover the capital costs.

Therefore, we recommend that exemptions include new affordable rental housing projects funded under a government program. Such programs generally require that rents be based on income or be below market, and often electricity is included to ensure energy security for vulnerable tenants. As such, cost recovery of the capital expenditure would be difficult, and would represent an additional up-front investment that few producers of new affordable housing could afford.

1. How should a “new” building be defined? At what point does a building cease to be “new” and become an existing building? Should converted buildings be treated as new?

We recommend that requirements in the building code and other relevant legislation be considered to define new buildings and to guide the approach to converted buildings.

2. When setting requirements for billing, what other requirements or conditions can be prescribed other than meeting the requirements under s.137 of the RTA?

Billing requirements should be established by the OEB and enforced by the OEB as a condition of licensing suite meter providers. The matters to be included in these requirements should be consistent with those addressed by the code of conduct for condominiums.

Section 137 requires that the suite meter provider be licensed, which is appropriate, and regular confirmation that the provider is in good standing with the OEB should be an additional requirement. However, s.137, Bill 235 and the regulations are unclear about what will happen if the suite meter provider subsequently loses their licence or is found to be non-compliant with licensing requirements, and we recommend that a response for this situation be determined.

8.0 TREATMENT OF SOCIAL HOUSING

It is proposed that social housing be exempt from suite metering until such time as the outcomes of pending reviews are known, and separate consultations with the sector are completed.

We agree that further information and consultation is required. In addition, we recommend that consideration be given to exempting other forms of government supported affordable housing until this additional work is completed. Similar issues will apply to affordable housing built under more recent programs.

If the decision is made to proceed with including social housing at this time, we recommend that

1. suite metering of electric heat not be permitted for either sitting or new social housing tenants. Costs arising from inefficiencies in heating systems should not be passed on to social housing tenants who have no additional financial resources. Until the *Social Housing Reform Act* (SHRA) utility scales are updated, suite metering that includes heat would create a significant financial penalty for residents. Until the SHRA benchmarked utility costs are updated, service managers would not be able to reduce housing provider funding to account for the direct payment of utilities by residents;
2. social housing providers who house primarily homeless, hard to house, mentally ill, or developmentally disabled residents be exempted. While all social housing providers have difficulty improving energy efficiency without funding programs, the challenges for this group of housing providers and residents may be greater;
3. in tandem with enacting provisions to regulate social housing, the Province provide funding for a robust education campaign on energy reduction. Such a

campaign should be delivered through social housing sector organizations that should be a pre-condition for social housing suite metering;

4. a provincial program to help low income energy consumers be a precondition for social housing suite metering. The program needs to comprise four elements: (i) temporary financial assistance for energy bill payment; (ii) tailored customer service measures; (iii) targeted conservation and demand management programs; and (iv) a broad-based rate affordability program for low-income customers. These pre-conditions would also be of value to low income tenants in the private sector and a provincial program is also recommended for this population;
5. if required, the province amend the *Residential Tenancies Act* to exempt rent geared-to-income (RGI) social housing from rent reductions, understanding that the rents would be reduced in accordance with the RGI program utility scales;
6. the Province amend the utility scales in Regulation 298 of the SHRA so that residents paying for hydro receive appropriate utility allowances;
7. the Province amend the SHRA benchmarks for utility cost funding, to recognize the cost changes arising from suite metering;
8. rate subsidies or bill discounts be introduced for social housing residents in recognition of their reduced ability to pay their electricity costs. This subsidy or discount should be designed to work in tandem with both education and conservation and demand management to these residents such that when both are fully effective and residents see their energy consumption go down, the subsidies or discounts can be removed accordingly; and that
9. social housing landlords be given at least five years to meet new unit energy efficiency standards, recognizing that major replacements require either dedicated funding programs or a phased in approach.

II APPORTIONMENT OF UTILITY COSTS

1.0 APPORTIONMENT OF UTILITY COSTS AND RENT REDUCTIONS

Bill 235 would make provisions for landlords of buildings with six or fewer units to ratio-bill (pro-rate) bulk utility billings to tenants with their consent. Utilities include electricity, heat and water.

How should utility costs be apportioned among tenants and rent reduction calculated?

We are concerned that the scheme required to support ratio billing for sitting tenants is too complex to implement, particularly relative to the potential electricity, gas and water savings of this relatively small component of the rental market. The transfer of electricity alone, and supported by installation of a meter measuring actual use is challenging enough; ratio billing as proposed would cover multiple utilities without equipment such as suite metering to help set payments. As such, we recommend instead that this option

only be permitted on turn-over, with sufficient disclosure, so that prospective tenants may negotiate the rent accordingly.

In addition, it is less clear why this provision is included in Bill 235. The suite metering provisions are based on the assumption that when tenants know how much electricity they use and must pay for it, they will use less electricity (an assumption we question). In ratio billing, a tenant household is not able to directly impact on their bill as the bulk bill for the building is impacted by utility use of all tenants, including those with utilities included in their rent. Therefore, ratio billing seems inconsistent with the theory of Bill 235.

If the decision is to proceed with ratio billing, we recommending that the following issues be considered:

- Reasonable consumption model for pro-ratio: Ratio billing should be based on square footage or unit type, and not on household size. Square footage and unit types do not change; household compositions do. If based on household size, the apportionment of building costs among the units would need to be renegotiated every time a unit turns over to reflect that different household sizes (reflecting changes in usage or anticipated usage). As discussed earlier, the reasonable consumption model does not accurately reflect actual use and may have negative consequences for some tenants; however, provided they are aware of their right to not give consent and are able to apply for rent revisions without limitations, this may be manageable.
- Systems will need to be put in place to ensure the tenant is only paying their share of the bill. Tenants normally do not see the bulk bills for their building. If ratio-billing is agreed to, when their bill is presented, the tenant should also be provided with a copy of the utility bill and the calculations done to determine their share of the bill based upon the percentage allocation they agreed to.
- In Toronto, solid waste management charges are billed as a utility (water bill). Would landlords be permitted to similarly ratio-bill solid waste management charges or would these be excluded?

2.0 ENERGY EFFICIENCY STANDARDS

What unit and appliance conservation and efficiency standards should be prescribed for utilities, i.e., electricity, heat and water?

Consistent with our recommendation in section 1.0, any requirement that units/buildings be upgraded and that appliances be replaced should be based on a cost benefit analysis to ensure that the rent increases resulting from such capital work do not outstrip the potential utility cost savings to the tenants. Also consistent with our recommendation in section 1.0, the transfer of heat (whether electric or gas) should be excluded for sitting tenants.

As to standards, in addition to EnergyStar for appliances, standards will be required for fixtures (such as toilets, showers, hot water heaters and other water using devices).

3.0 TENANT'S APPLICATION FOR BREACH OF EFFICIENCY STANDARDS

When should tenants be allowed to make an application to the LTB for an order determining whether their landlord has failed to meet their obligations?

We recommend that applications may be made for any purpose.

4.0 DISCLOSURE TO PROSPECTIVE TENANTS

- 1. Over what time period should building utility cost information be required to be provided for?**
- 2. What other information should landlords be required to provide to prospective tenants?**

We recommend similar provisions to those made in Part I apply where utility costs are apportioned.

5.0 NOTICES BY LANDLORD

- 1. What should the notice period be for landlords charging tenants a portion of the cost of the utility?**
- 2. What other additional information should be included in the notice?**

We recommend similar provisions to those made in Part I apply where utility costs are apportioned. In addition, landlords would need to provide copies of utility bills for the last 12 months and information about how those bills would be pro-rated among the units and common areas. After ratio-billing, the landlord would need to provide copies of utility bills monthly (or for whatever billing period applies) in order that the tenant can confirm that the share they are being asked to pay is correct.