



# Suite metering – a new start in 2011

LIEN annual conference  
May 31, 2011  
Toronto

Mary Todorow  
Advocacy Centre for Tenants Ontario



# Who's calling for suite/Smart metering of electricity service in apt. buildings?

## Ontario government

- reduce electricity peak demand (peak is now in summer)
- allow tenants to share in benefits of energy savings
- promote "Culture of Conservation" among all energy consumers and establish Smart Grid system

## Landlords

- want to transfer in-suite utility costs directly to tenants, argue that tenants and the environment will benefit

## Suppliers

- Suite metering providers and Smart Meter manufacturers see business opportunity in multi-residential rental sector

# Ontario's energy crisis



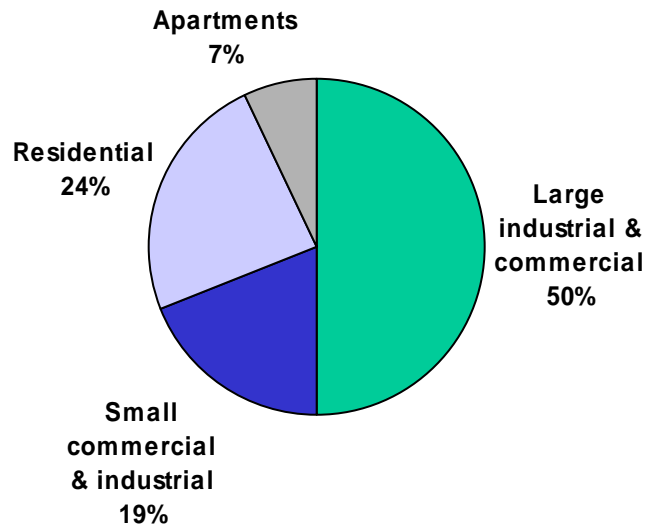
- ◆ Need to refurbish, rebuild, replace or conserve more than 80% of Ontario's current electricity generating capacity
- ◆ Coal-fired plants to close by 2014
- ◆ Ontario's Long-Term Energy Plan (2010-2030) targets conservation savings of 7100 MW and decrease in demand of by 28 TWh (terawatt-hours)

## Rising energy prices

- ◆ Real cost-to-customer increases of Ontario's Long-Term Energy Plan – projected at 3.5% per year over 20 years
- ◆ BUT, **7.9% per year increases over next five years** (and Ontario Clean Energy Benefit takes 10% off electricity bills over next 5 years)
- ◆ **Important factor in tenant's consideration of whether to consent or not to suite metering**



# What percentage of electricity use in Ontario is from apartments?



- ◆ Our best estimate is that bulk-metered apartments, i.e. those that are candidates for sub-metering, comprise only 7% of Ontario's annual electricity consumption



## How many tenants; where do they live?

- ◆ 28.8% of all Ontario households are renters (1,312,295 tenant households)
  - 40% live in apt. buildings with five or more storeys
  - 29% live in apt. buildings with fewer than five storeys



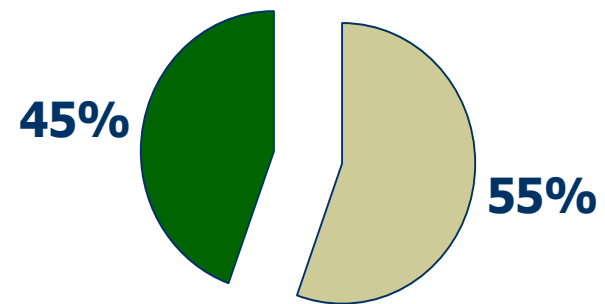
## Housing affordability and tenants



- ◆ The median income of Ontario's renter households is less than half of homeowner households (\$33,447 vs. \$74,712) - 2006 Census
- ◆ Ontario renter households represent 28.8% of all Ontario households, but comprise 63.5% of Ontario households in core housing need (2006 Census)

## Housing affordability and tenants

- ◆ 45% of Ontario's tenant households pay 30% or more of their household income on shelter costs (including utilities)
- ◆ 20% pay 50% and over of their household income on shelter costs - and are at risk of homelessness
- ◆ **Impact of rising energy costs and suite metering....**







## Tenants and electricity use



### Currently:

- ◆ most tenants in multi-residential private rental sector pay for utilities in their rent
- ◆ estimated that 85% to 90% of multi-residential buildings are bulk-metered, and most Ontario apartment buildings are not electrically heated
- ◆ most social housing tenants pay for utilities in their rent; only 18% of tenants pay electricity bills directly

# Smart Meters; sub-meters; suite meters

## Smart meters

- Record how much, and at what time of day, electricity is used (unlike current mechanical/analog meters).

## Sub-meters

- Installed behind master or bulk meters; measure electricity consumed in-suite in order to individually bill tenants. Electricity sub-meters can also be smart meters.

## Suite meter

- Either a unit smart meter (installed by an LDC) or a unit sub-meter (installed by a sub-meter provider), both of which are installed in a unit of a multi-unit complex and are not connected to a bulk meter.

# Tenants and suite metering - split incentive

- ◆ landlords want to minimize costs and make a profit; tenants seek safe, comfortable, affordable home and predictable monthly rent
- ◆ tenants don't have authority to invest/retrofit – or financial resources
- ◆ Suite metering shifts financial incentive on LLs to provide and maintain an energy-efficient building & appliances for tenants – could undermine conservation efforts



## Prohibition – discretionary metering

- ◆ Amendment to *Electricity Act, 1998* in Bill 21, *Energy Conservation Responsibility Act, 2006*)
- ◆ Section 58.18 prohibited discretionary metering on or after November 3, 2005 unless authorized
- ◆ Electricity sub-metering activity taking place under both section 125 & 130 of the RTA – illegal
- ◆ Tenants file applications at LTB, complain to OEB

## OEB and electricity sub-metering

### Enforcement of prohibition on discretionary metering in *Electricity Act, 1998* (section 53.18)

- ◆ OEB issued compliance bulletin on March 24, 2009 halting installation, removal and use of electricity sub-meters

### Authorization of discretionary metering

- ◆ ACTO and LIEN participate in OEB written hearing initiated May 5, 2009; Order and decision released August 13, 2009

## OEB and electricity sub-metering

### Authorization of discretionary metering

- ◆ OEB validates concerns raised by ACTO and LIEN – agree that voluntary, informed tenant consent required
- ◆ Board rules landlord-initiated sub-metering on or after November 3, 2005 is unauthorized/illegal
- ◆ Board sets conditions to transfer electricity service to tenants
- ◆ Energy audits of buildings, how rent reductions calculated, disclosure of all costs associated with electricity usage

## OEB and electricity sub-metering

### OEB authorization of discretionary metering

- ◆ “Transitional & interim Order” – Board states best mechanism for authorizing sub-metering is provincial legislation
- ◆ Provincial government introduces Bill 235 on December 8, 2009; Royal Assent May 18, 2010; in force January 1, 2011



---

## **Bill 235, *Energy Consumer Protection Act, 2009* – Suite metering provisions**

---

- ◆ Sets out the government's framework for the suite metering of electricity service in multi-residential buildings (rental and condo)
- ◆ The intent is to have more consistency between suite meter providers and LDCs
- ◆ Repealed and replaced RTA s. 137 and s. 138 which had never been proclaimed





---

## **Bill 235, *Energy Consumer Protection Act, 2009* – Suite metering highlights**

---

- ◆ Landlord must obtain consent of **sitting** tenant in order to transfer electricity costs after suite metering is installed
- ◆ Sitting and prospective tenants given prescribed information
- ◆ Suite metering voluntary in existing buildings, mandatory in new buildings



## **Bill 235, *Energy Consumer Protection Act, 2009* – Suite metering highlights**

- ◆ Rent reductions if tenant agrees to suite metering (exemption for RGI units)
- ◆ Tenants may ask the landlord to adjust the rent reduction (but, no prescribed circumstances in regulation)
- ◆ Landlords required to meet energy efficiency standards for fridges only
- ◆ Landlords can't meter electricity used for in-suite heating

## **Bill 235, *Energy Consumer Protection Act, 2009* – Suite metering highlights**

- ◆ Rules paralleling LDCs on fees, licensing, security deposits and disconnections
- ◆ OEB to approve and fix separate rates for unit sub-metering and unit smart metering – however, only if regulation is issued
- ◆ Government holding back – believes regulation will raise suite metering rates; counting on market forces to regulate suite metering costs



---

## **Bill 235, *Energy Consumer Protection Act, 2009* – stakeholder consultation**

---

EBR registry posting - LIEN

MMAH consultation paper - ACTO

- ◆ Suite metering regulations under ECPA and RTA
- ◆ Two stakeholder meetings – private rental and social housing sectors

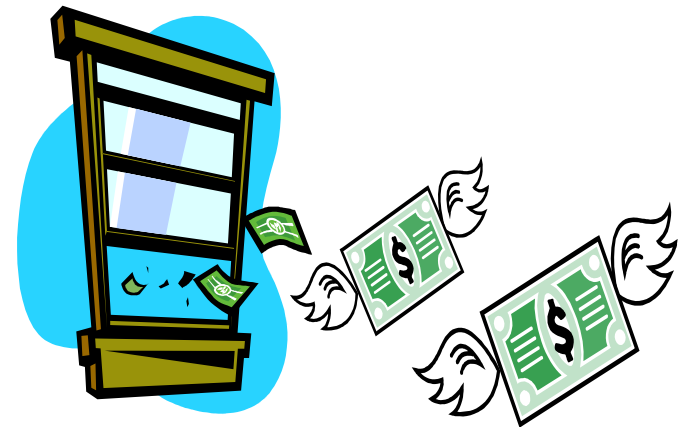
# Is Smart Metering the answer, effective conservation?



- ◆ intended to encourage consumers to shift electricity use to off-peak hours
- ◆ BUT, low-income households have least capacity to shift energy use (families with children, seniors, disabled, unemployed)

# If tenants pay directly for in-suite energy use, will they will use less?

- ◆ Landlord controls building envelope (windows, insulation), HVAC systems, energy efficiency of appliances provided such as fridges
- ◆ Tenants control discretionary energy use in-suite, lighting, electronics, appliances
- ◆ Both impact on energy use reduction efforts



# If tenants pay directly for in-suite energy use, will they will use less?

- ◆ Suite metering energy savings claims vary –10% to 40%, 15% to 25%, average of 25% to 33% - but, no expert, neutral study undertaken to date with detailed analysis of how suite metering savings are being achieved
- ◆ Study should include cost-benefit analysis of suite metering vs. energy efficiency retrofits vs. energy conservation education and examine:
  - the characteristics of the buildings and individual units where suite meters are installed,
  - who is or is not achieving energy savings and why, and
  - the impact on housing and financial security of the residents



# OEB RPP TOU pricing consultation – December 2010

- ◆ OEB considered increasing the price differential between peak and off-peak pricing
- ◆ Experts differ on impact of TOU pricing on low-income consumers
- ◆ Board decided in March 2011 not to make changes to TOU pricing structure or price setting methodology
- ◆ Board initiating smart meter data collection project in summer of 2011





## **Bill 235, *Energy Consumer Protection Act, 2010***

- ◆ Problems with tenant “protections” in section 137 of the RTA
  - Onus on tenants to enforce (through LTB and MMAH’s I&E unit)
  - Rent reduction benefit for sitting tenant can disappear over time with rising electricity costs
  - Rent reductions disappear for new tenant on unit turnover because of vacancy decontrol
  - Need for sustained incentive on landlord to maintain and further improve energy efficiency of property (lost conservation opportunity....fridges!)



***Should I accept my landlord's offer  
to assume responsibility  
for my own electricity bill?***

Should you do anything your landlord wants you to do?  
To whose benefit is the offer being made?

- ◆ Tenants will lose the RTA protections prohibiting electricity cut off.
- ◆ Tenants will lose predictable rent increases with government oversight.
- ◆ Tenants will experience unpredictable service charges.
- ◆ Tenants can always agree later after they have investigated the experiences of their neighbours.

***What do I need to be provided with in order to make an informed decision to accept responsibility for my own electricity bill?***


- ◆ The tenant must be given information in writing about the amount of the rent reduction and how it's calculated
- ◆ The tenant must be given a statement in writing that they do not have to consent
- ◆ Information must be provided about the suite meter provider - fees, deposits, planned fee increases, circumstances where electricity will be cut off
- ◆ The landlord must provide information about the date of manufacture and energy-efficiency of the refrigerator in the rental unit; fridge replacements must be manufactured on or after December 31, 2002



## *What if I agree and then later change my mind?*



- ◆ Principles of contract law will apply.
- ◆ Was there fraud or duress?
- ◆ Did the landlord meet the statutory obligations for the tenant to agree and can the tenant prove they did not?
- ◆ Contracts of this type will be hard to repudiate.



*I want to rent a unit, but the landlord is giving me only one choice - to assume responsibility for the electricity*

- ◆ A tenant is free to walk away from a unit if they do not want to assume responsibility for their own electricity bill.
- ◆ A tenant may be able to negotiate that electricity will be included in their rent for an adjusted rent amount.
- ◆ A tenant is free to negotiate how much rent they want to pay for a unit if electricity is not included.
- ◆ A prospective tenant has a right to information about past electricity consumption in the rental unit
- ◆ Issues like the vacancy rate, location of the apartment, quality of the apartment will determine how much negotiating room there will be between the prospective parties to the lease.

# Going forward with electricity suite metering?



LIEN has highlighted concerns about suite metering as a flawed energy conservation strategy

ACTO calling for thorough review of whether suite metering is the most effective and fair way to reduce energy use in rental sector

# Going forward with electricity suite metering?



Two crucial programs needed for low-income tenants

1. Low-income energy rate affordability program (not just emergency energy assistance)
2. Low-income conservation programs for multi-residential sector (to reduce impact of AGIs)