



# **Electricity Reporting and Record Keeping Requirements**

**Guidance from the Chief Compliance Officer  
for Self-Certifying Compliance with  
the Affiliate Relationships Code for  
Electricity Distributors and Transmitters**

***February 28, 2007***

# **ARC Self-Certification Guide**

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## INTRODUCTION

### *Purpose and Scope*

This Guide is intended to assist electricity distributors and transmitters (“utilities”) in preparing the annual self-certification statements required by the *Electricity Reporting and Record Keeping Requirements* (the “RRR”) in relation to compliance with the *Affiliate Relationships Code for Electricity Distributors and Transmitters* (the “Code”).

This Guide leads utilities through a series of questionnaires containing “Yes” or “No” statements designed to facilitate assessment of compliance with the Code for the purposes of the annual self-certification requirements of the RRR. These statements identify issues that a utility should consider for the purposes of making the self-certification statements required by the RRR, but are not necessarily exhaustive of the matters to be considered in determining compliance with the Code. While the questionnaires contained in this Guide identify circumstances that may be indicative of non-compliance, these circumstances are similarly not necessarily exhaustive. Each utility remains solely responsible for ensuring that it is in compliance with the Code and all other applicable legal and regulatory requirements, and that each self-certification statement accurately represents the utility’s compliance status with respect to the subject matter of the statement over the applicable period referred to in the RRR.

Use of this Guide is not mandatory, and utilities are not expected to file with the Board completed copies of the questionnaires contained in this Guide when they file their self-certification statements. However, utilities are reminded that, in accordance with sections 2.3.7 (for distributors) and 3.3.6 (for transmitters) of the RRR, they must maintain and be able to provide, on request, records substantiating the self-certification statement confirming compliance with the Code as well as other records relating to the Code.

This Guide should be read in conjunction with the Code, and with the following Compliance Bulletins:

- Compliance Bulletin 200601 issued February 24, 2006 (independence of members of the Board of Directors); and
- Compliance Bulletin 200604 issued July 10, 2006 (compliance with the Code generally).

Nothing in this Guide limits the obligations of a utility under any applicable legal or regulatory requirement, including the Code or the RRR, whether specifically mentioned in this Guide or not. Nothing in this Guide should be construed as limiting the powers of the Board to take enforcement action in relation to non-compliance with applicable legal or regulatory requirements, including the Code and the RRR.

### ***What is the Code?***

The Code sets out standards and conditions for the interaction between a utility and its affiliates. The principal objectives of the Code are to enhance the development of a competitive market while saving ratepayers harmless from the actions of utilities with respect to their dealings with their affiliates. The standards established in the Code are intended to:

- a) Minimize the potential for a utility to cross-subsidize competitive or non-monopoly activities;
- b) Protect the confidentiality of consumer information collected by the utility in the course of the provision of utility services; and
- c) Ensure there is no preferential access to regulated utility services.

### ***RRR Requirements***

The RRR contains both reporting and record keeping requirements for utilities relating to a variety of matters. Among other things, the RRR requires utilities to file with the Board, on an annual basis, self-certification statements regarding compliance with the Code. Specifically, each utility is required to file self-certification statements regarding the following:

- a) Independence of at least one-third of the Board of Directors from any affiliate;
- b) Data security arrangements, where information services are shared with an affiliate; and
- c) The performance of periodic compliance reviews; communication of the Code to employees; monitoring of employee compliance with the Code; and compliance with the Code.

In addition, each utility must maintain, and provide in such form and manner as may be requested by the Board, records substantiating its self-certification statement about compliance with the Code, including:

- a) Individual files for each compliance review;
- b) Details about the communication of the Code to employees; and
- c) Details on the positions and/or staff being monitored, when, how, and frequency.

### ***How to use this Guide***

For each self-certification statement required by the RRR, the questionnaires contained in this Guide contain statements to facilitate review of compliance with the pertinent provisions of the Code. Responses to the statements should reflect the utility's circumstances throughout the preceding calendar year.

Where a utility has more than one affiliate, it is recommended that the utility complete a separate questionnaire in respect of each affiliate.

Utilities are encouraged to attach additional supporting details substantiating their answers to the questionnaires, to facilitate retrieval in the event that the information is requested by the Board or by the Chief Compliance Officer.

Not all of the questionnaires will be applicable to every utility. Each utility should consider the nature and scope of its affiliate relations and of the activities of its affiliates in order to determine which questionnaires apply.

### ***Declaring Suspected Non-Compliance***

Where a utility suspects that it is not, or has not during the applicable period, been compliant with a provision of the Code for the purposes of a self-certification statement, it should disclose the suspected non-compliance by identifying it as an "*Exception*" on the self-certification statement. The following information should be provided in relation to each "*Exception*":

- a) The section of the Code with which the utility suspects that there is or has been non-compliance;
- b) A description of the non-compliant situation and the period of time during which the suspected non-compliance subsisted; and
- c) Where the non-compliance was remedied during the period covered by the self-certification statement, a description of how and when the remedial action was taken.

All instances of suspected non-compliance, and any associated comments made by the utility, will be communicated to the Compliance Office for review and follow-up as appropriate.

### ***Need More Information?***

Any questions regarding the Code, the RRR or this Guide should be directed to the Market Operations Hotline at 416 440 7640 or by email at [market.operations@oeb.gov.on.ca](mailto:market.operations@oeb.gov.on.ca).

This Guide has been issued by the Chief Compliance Officer. No statutory power of decision has been delegated to the Chief Compliance Officer, and the views expressed in this Guide are not binding on the Board. The Chief Compliance Officer may seek enforcement action by the Board under Part VII.1 of the *Ontario Energy Board Act, 1998* in relation to non-compliance.

## SELF-CERTIFICATION STATEMENT QUESTIONNAIRES

### **DIRECTOR INDEPENDENCE**

**RRR Reference(s):** 2.2.1 (distributors) and 3.2.1 (transmitters)  
**Code Reference(s):** 2.1.3

Section 2.1.3 of the Code requires that at least one-third of a utility's Board of Directors be independent from any affiliate. This section currently applies to all utilities, but has applied to distributors that are "municipal utilities" only since July 1, 2006.

Compliance Bulletin 200601 provided guidance regarding the meaning of the word "independent" for purposes of this section of the Code. Specifically, it was noted that the following persons would not be considered independent within the meaning of section 2.1.3:

- A shareholder, director, officer or employee of an affiliate
- Where the affiliate is a municipality, the mayor, a member of the municipal council, a member of a "local board" as defined in the *Municipal Act, 2001* or an employee of the municipality
- An employee of the utility

1. The following was a member of the Board of Directors of the utility:

- Shareholder of an affiliate \_\_\_\_\_
- Director of an affiliate \_\_\_\_\_
- Officer of an affiliate \_\_\_\_\_
- Employee of an affiliate \_\_\_\_\_
- Employee of the utility \_\_\_\_\_
- Where the affiliate is a municipality:
  - The mayor \_\_\_\_\_
  - A member of the municipal council \_\_\_\_\_
  - A member of a "local board" as defined in the *Municipal Act, 2001* \_\_\_\_\_
  - An employee of the municipality \_\_\_\_\_

If the total number of individuals listed above comprises or has comprised more than two thirds of the Board of Directors, then the utility may not have met the requirements of section 2.1.3 of the Code.

### **DATA ACCESS PROTOCOLS**

**RRR Reference(s):** 2.2.2 (distributors) and 3.2.2 (transmitters)

**Code Reference(s):** 2.2.2

Section 2.2.2 of the Code requires that, where a utility shares information systems with an affiliate, the utility should have appropriate computer data management and data access protocols, as well as contractual provisions regarding the breach of any access protocols. These measures are intended to protect confidential information from access by the affiliate.

A self-certification statement is required by the RRR where the utility shares one or more of the following with an affiliate:

- Computer systems
- Computer services
- Databases
- Persons knowledgeable about the utility's information technology systems

If the utility shares one or more of the above with an affiliate, the utility should proceed to answer the following:

1. The utility has in place computer data management and data access protocols, which include:

- Contractual provisions regarding the breach of any access protocols
- A security function that constructs user specific access rights
- Regular reviews of user specific access rights to ensure that these remain up to date
- A reporting mechanism which monitors system access, and tracks when and who logs onto the system
- Other. Specify: \_\_\_\_\_



If the utility has no computer data management and data access protocols in place, then the utility may not have met the requirements of section 2.2.2 of the Code.

2. The utility has performed:

- A review that complies with section 5970 of the CICA Handbook to determine compliance with the data access protocols; or \_\_\_\_\_
- Has taken other steps to determine compliance with the data access protocols. \_\_\_\_\_

If the utility answered “No” to all of question 2, then the utility may not have met the requirements of section 2.2.2 of the Code.

**COMPLIANCE REVIEWS  
COMMUNICATION OF CODE TO EMPLOYEES &  
MONITORING EMPLOYEE COMPLIANCE WITH CODE**

**RRR Reference(s)**            2.2.3 (distributors) and 3.2.3 (transmitters)  
**Code Reference(s):**        2.7.1

Section 2.7.1 of the Code requires that a utility do the following to ensure compliance with the Code:

- Perform periodic compliance reviews;
- Communicate the Code to its employees; and
- Monitor its employees' compliance with the Code.

Utilities are reminded that the RRR contains record-keeping requirements applicable to the activities referred to in section 2.7.1 of the Code, and that they should therefore retain details of the date(s) and employee(s) involved in such activities.

1. The utility performs compliance reviews through :

- Periodic staff interviews \_\_\_\_\_
- Periodic staff discussions/meetings \_\_\_\_\_

- Periodic surveys/questionnaires
- Other. Specify: \_\_\_\_\_

2. The utility has communicated the Code to all employees through: \_\_\_\_\_

- Regular meetings/discussions \_\_\_\_\_
- Training materials \_\_\_\_\_
- Training sessions on the requirements of the Code as it relates to specific employee roles and responsibilities \_\_\_\_\_
- Presentations \_\_\_\_\_
- Internal communications including emails, posting or intranet \_\_\_\_\_
- Other. Specify: \_\_\_\_\_

3. The utility monitors employee compliance with the Code by:

- Requiring manager(s) to report on employee compliance \_\_\_\_\_
- Consulting with manager(s) to verify employee compliance \_\_\_\_\_
- Requiring employees to certify their compliance \_\_\_\_\_
- Other. Specify: \_\_\_\_\_

If the utility has not performed periodic compliance reviews, communicated the Code to its employees and/or monitored its employee’s compliance with the Code, then the utility may not have met the requirements of section 2.7.1 of the Code.

**COMPLIANCE WITH THE CODE**

**RRR Reference(s):** 2.2.3 (distributors) and 3.2.3 (transmitters)  
**Code Reference(s):** several, see individual topics below

Sections 2.2.3 (for distributors) and 3.2.3 (for transmitters) include a requirement to self-certify as to compliance with the Code generally. To assist in determining compliance with the Code, the following questionnaires identify issues to be considered in relation to various individual provisions of the Code.

Certain provisions of the Code apply only to a utility’s relationship with an affiliate that is an energy service provider (ESP). The following can assist a utility in determining whether an affiliate is an ESP:

1. The affiliate is involved in the supply of electricity or gas or related activities including, but not limited to, the following:
  - Electricity retailing \_\_\_\_\_
  - Natural gas marketing \_\_\_\_\_
  - Electricity generation \_\_\_\_\_
  - Energy management services \_\_\_\_\_
  - Demand-side management programs \_\_\_\_\_
  - Appliance sales, service, and rentals (i.e. hot water heaters, street lighting, sentinel lighting) \_\_\_\_\_

If the affiliate provides any of the services listed above, or conducts other activities that are related to the supply of electricity or gas, then the affiliate is an ESP. A utility that has an ESP affiliate should ensure that it answers the questions below which are noted as being specific to ESP affiliates, in addition to all other applicable questionnaires.

**Accounting and Financial Separation**

**Code Reference(s):** 2.1.1

Section 2.1.1 of the Code requires that a utility ensure accounting and financial separation from all affiliates and that it maintain separate financial records and books of account.

1. The utility’s general ledgers and bookkeeping are separate from those of its affiliate.
2. The utility’s bank accounts are separate from those of its affiliate. \_\_\_\_\_

If the utility answered “No” to question 1 or 2, then the utility may not have met the requirements of section 2.1.1 of the Code.

**Physical Separation**

**Code Reference(s):** 2.1.2

Section 2.1.2 of the Code requires that a utility be physically separated from an affiliate that is an energy service provider (“ESP”).

- 1. The operations of the utility and the operations of the ESP affiliate are carried out in different buildings. \_\_\_\_\_
- 2. If the operations of the utility and the operations of the ESP affiliate are carried out in the same building, the employees within these two organizations have separate office space within the building and appropriate physical and information access restrictions are in place. \_\_\_\_\_

If the utility answered “No” to both questions 1 and 2, then the utility may not have met the requirements of section 2.1.2 of the Code.

**Requirement for Services Agreement**

**Code Reference(s):** 2.2.1

Section 2.2.1 of the Code requires that where a utility shares services or resources with an affiliate, it must do so in accordance with a Services Agreement.

- 1. The utility provides services or resources to an affiliate, on a regular or continuous basis including but not limited to:
  - Equipment \_\_\_\_\_
  - Vehicles \_\_\_\_\_
  - Facilities \_\_\_\_\_
  - Employees \_\_\_\_\_
- 2. The utility receives services or resources from an affiliate, on a regular or continuous basis, including but not limited to:
  - Equipment \_\_\_\_\_
  - Vehicles \_\_\_\_\_
  - Facilities \_\_\_\_\_
  - Employees \_\_\_\_\_

If the utility answered “Yes” to any part of either question 1 or 2, then a Services Agreement is required.

- 3. The utility has in place a Services Agreement that complies with the Code and that includes a detailed description of:
  - The type, quantity and quality of service \_\_\_\_\_
  - Pricing mechanisms \_\_\_\_\_

- Cost allocation mechanisms \_\_\_\_\_
  - Confidentiality arrangements \_\_\_\_\_
  - Apportionment of risks \_\_\_\_\_
  - A dispute resolution process for any disagreement arising over the terms or implementation of the Services Agreement. \_\_\_\_\_
4. The Services Agreement accurately reflects the current type, quantity and quality of resources or services being shared between the utility and the affiliate. \_\_\_\_\_

If the utility answered “No” to any part of question 3 or to question 4, then the utility may not have met the requirements of section 2.2.1 of the Code.

**Sharing of Employees**

**Code Reference(s):** 2.2.3.

Section 2.2.3 of the Code prohibits the sharing of employees who are directly involved in collecting and/or having access to confidential information.

The following questions can assist a utility in identifying whether employees are involved in collecting and/or have access to confidential information:

1. Employees shared between the utility and the affiliate are directly involved in collecting and/or have access to information relating to a specific consumer, retailer or generator that the utility has obtained in the process of providing current or prospective utility service. Such information includes, but is not limited to, the following:
  - Account number(s) \_\_\_\_\_
  - Contact information, including address, telephone number, and email address \_\_\_\_\_
  - Service address \_\_\_\_\_
  - Consumption and demand data (historic or current) \_\_\_\_\_
  - Customer transactions with the utility (i.e. account balances, payment history, account activity) \_\_\_\_\_
  - Financial/credit information \_\_\_\_\_
  - Customer-owned equipment \_\_\_\_\_

- Services received by the customer
- Complaint records

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If the utility answered “Yes” to any part of question 1, then the shared employees are involved in collecting and/or have access to confidential information. The utility should proceed to answer the questions set out under the heading “*Transmitters*” or “*Distributors*”, as applicable.

*Transmitters:*

2. Employees shared between the transmitter and the affiliate that are directly involved in collecting and/or have access to confidential information are also involved in the affiliate’s unregulated activities.

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If the transmitter answered “Yes” to question 2, then the transmitter may not have met the requirements of section 2.2.3 of the Code.

*Distributors:*

3. Employees shared between the distributor and the affiliate that are directly involved in collecting and/or have access to confidential information are also involved in the affiliate’s unregulated activities in the distributor’s licensed service area.

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If the distributor answered “Yes” to question 3, then the distributor may not have met the requirements of section 2.2.3 of the Code.

**Code Reference(s):** 2.2.4.

Section 2.2.4 of the Code establishes additional rules relating to the sharing of employees where the affiliate is an energy service provider (ESP). Shared employees that carry out the day-to-day operation of the transmission or distribution network cannot be involved in the provision of the ESP affiliate’s unregulated activities.

If the affiliate is not an ESP, the utility should proceed to the questions listed under “*Transfer Pricing*”.

*Transmitters:*

4. Employees shared between the transmitter and the ESP affiliate are involved in providing services for the purpose of carrying out the day-to-day operation of the transmitter’s transmission network, including but not limited to:

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- System control

- Engineering & construction \_\_\_\_\_

An employee that is involved in any of the above activities may be involved in the day-to-day operation of the transmission network. The transmitter should proceed to question 5.

5. Employees shared between the transmitter and the ESP affiliate that are involved in the day-to-day operation of the transmission network are also involved in the ESP affiliate's unregulated activities. \_\_\_\_\_

If the transmitter answered "Yes" to question 5, then the transmitter may not have met the requirements of section 2.2.4 of the Code.

Distributors:

6. Employees shared between the distributor and the ESP affiliate are involved in providing services for the purpose of carrying out the day-to-day operation of the distributor's distribution network, including, but not limited to:
  - System control \_\_\_\_\_
  - Engineering & construction \_\_\_\_\_

An employee that is involved in any of the above activities may be involved in the day-to-day operation of the distribution network. The distributor should proceed to question 7.

7. Employees shared between the distributor and the ESP affiliate that are involved in the day-to-day operation of the distribution network are also involved in the ESP affiliate's unregulated activities in the distributor's licensed service area. \_\_\_\_\_

If the distributor answered "Yes" to question 7 then the distributor may not have met the requirements of section 2.2.4 of the Code.

**Transfer Pricing**

**Code Reference:** 2.3

Section 2.3 of the Code requires that a utility ensure that appropriate transfer pricing is used when providing or purchasing services, products or resources to or from an affiliate or when a utility sells assets to an affiliate.

Providing Services, Resources or Products to an Affiliate

1. When providing a service, resource or product, other than a regulated distribution service, to an affiliate, the utility:

- Completed a market review to determine whether or not a market for the service, resource or product exists by determining whether there were other entities willing to provide the service, resource or product. \_\_\_\_\_
- If through the market review the utility determined that other entities were willing to provide the service, resource or product, then the price charged by the utility for the service, resource or product was that determined by the market. \_\_\_\_\_

If the utility answered “No” to any part of question 1, then the utility may not have met the requirements of section 2.3.1 of the Code.

If through the market review the utility determined that other entities were willing to provide the service, resource or product, then the utility may not be permitted to carry out this business activity. Utilities are reminded that under section 71(1) of the *Ontario Energy Board Act, 1998*, utilities may not, except through one or more of its affiliates, carry on any business activity other than transmitting or distributing electricity.

If through the market review the utility determined that there were no other entities willing to provide the service, resource or product, then cost-based pricing must be used. The utility should proceed to the questions listed under “*Cost-based Pricing – Provision of Services, Resources or Products*”

*Cost-based Pricing – Provision of Services, Resources or Products*

2. The transfer price is no less than the utility’s actual fully allocated cost of providing the service, resource or product, plus a return on invested capital. The transfer price includes: \_\_\_\_\_

- Direct costs, which are those that can be reasonably identified with a specific unit of the service, resource or product, or with a specific operation or cost centre. \_\_\_\_\_
- Indirect costs, which are a proportional share of costs that cannot be identified with a specific unit of the service, resource or product, or with a specific operation or cost centre, and include but are not limited to overhead costs, administrative costs, and general expenses. \_\_\_\_\_



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- A return on invested capital that is equal or higher than the utility's approved rate of return.
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If the utility answered "No" to any part of question 2, then the utility may not have met the requirements of section 2.3.3 of the Code.

*Purchasing Services, Resources or Products from an Affiliate*

1. Prior to purchasing a service, resource or product from an affiliate, the utility:
    - Completed a market review to determine whether or not a market for the service, resource or product exists by determining whether there were other entities willing to provide the service, resource or product.
    - Ensured that, for purposes of the market review, the service, resource or product was not bundled with others in such a way so as to create a unique service requirement that could not be provided by any entity other than the affiliate.
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If the utility answered "No" to any part of question 1, then the utility may not have met the requirements of section 2.3.2 of the Code.

If through the market review the utility determined that other entities were willing to provide the service, resource or product, then market-based pricing is required by the Code. The utility should proceed to the questions listed under "*Market-based Pricing*".

If through the market review the utility determined that there were no other entities willing to provide the service, resource or product, then cost-based pricing must be used. The utility should proceed to the questions listed under "*Cost-based Pricing*".

*Market-based Pricing*

1. The transfer price of the service, resource or product was less than or equal to the fair market value of the service, resource or product.
  2. The utility used a tendering process and sought price quotations from third parties.
  3. The price paid by the utility to the affiliate was no more than the average of the price quotations received.
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4. If the utility did not use a tendering process, the utility can demonstrate by other means that it is paying no more than fair market value. \_\_\_\_\_

If the utility answered “No” to questions 1, and “No” to both questions 3 and 4, then the utility may not have met the requirements of section 2.3.2 of the Code.

#### *Cost-based Pricing*

1. The transfer price is no more than the affiliate’s actual fully allocated cost of providing the service, resource or product, plus a return on invested capital. The transfer price includes:
- Direct costs, which are those that can be reasonably identified with a specific unit of the service, resource or product, or with a specific operation or cost centre. \_\_\_\_\_
  - Indirect costs, which are a proportional share of costs that cannot be identified with a specific unit of the service, resource or product, or with a specific operation or cost centre, and include but are not limited to overhead costs, administrative costs, and general expenses. \_\_\_\_\_
  - A return on invested capital that is the higher of the utility’s approved rate of return or the bank prime rate. \_\_\_\_\_

If the utility answered “No” to any part of question 1, then the utility may not have met the requirements of section 2.3.3 of the Code.

2. If the utility sold an asset to an affiliate, the utility ensured that the sale price was no less than the net book value of the asset. \_\_\_\_\_

If the utility answered “No” to question 1, then the utility may not have met the requirements of section 2.3.4 of the Code.

### **Financial Transactions with Affiliates**

**Code Reference:** 2.4

Sections 2.4.1 and 2.4.2 of the Code permit a utility to provide loans, guarantee the indebtedness of, or invest in the securities of an affiliate, provided that specific conditions are met.

1. The utility has invested in or provided guarantees or any other form of financial support to affiliates where the amount, on an aggregated basis over all transactions with all affiliates, equals an amount greater than 25 percent of the utility’s total equity. 

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2. The loan, investment, or other financial support provided to the affiliate is on terms no more favourable than what that affiliate would be able to obtain on its own from the capital markets and in all cases at no more favourable terms than the utility could obtain directly for itself in capital markets. 

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If the utility answered “Yes” to question 1 or “No” to question 2, then the utility may not have met the requirements of section 2.4 of the Code.

**Equal Access**

**Code Reference:** 2.5

Section 2.5 of the Code contains a variety of provisions designed to ensure that there is no preferential access to regulated utility services and that a utility does not indicate a preference for the activities of its affiliate over those of other suppliers of unregulated activities.

1. The utility has endorsed or supported marketing activities of an affiliate that is an ESP.
2. The utility has endorsed or supported marketing activities of an affiliate that is an ESP by activities, including, but not limited to, the following:
  - Directing utility consumers to a website, or other point of contact, which fails to clearly distinguish between the utility (and its services), and any affiliate, that is an ESP (and its services).
  - Using customer bills, letterhead, vehicles, business cards and the like which fail to clearly distinguish between the utility (and its services) and any affiliate that is an ESP (and its services).

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3. If the utility has included an affiliate as part of a listing of alternative service providers, the affiliate’s name has been highlighted. 

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4. The utility has stated or implied to consumers a preference for any affiliate who is an ESP by activities including, but not limited to, the following: 

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- Directing utility consumers to a website, or other point of contact, which fails to clearly distinguish between the utility (and its services), and any affiliate, that is an ESP (and its services).
  - Using customer bills, letterhead, vehicles, business cards and the like which fail to clearly distinguish between the utility (and its services) and any affiliate that is an ESP (and its services).
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5. The utility, including its employees and agents, have stated or implied to consumers a preference for any affiliate who is an ESP by:
- Directing utility consumers to a website, or other point of contact, which fails to clearly distinguish between the utility (and its services), and any affiliate, that is an ESP (and its services).
  - Using customer bills, letterhead, vehicles, business cards and the like which fail to clearly distinguish between the utility (and its services) and any affiliate that is an ESP (and its services).
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If the utility answered “Yes” to any of the questions above then the utility may not have met the requirements of sections 2.5.1 and 2.5.2 of the Code.

6. If the utility’s affiliate uses the utility’s name, logo or other distinguishing characteristics, the utility has taken reasonable steps to ensure that such use is not affected in a manner that would mislead consumers as to the distinction between the utility and the affiliate. Reasonable steps include, but are not limited to, the following:
- Ensuring that customer bills, letterhead, vehicles, business cards and the like clearly identify the utility as the service provider.
  - Ensuring that customer bills, letterhead, vehicles, business cards and the like distinguish between the utility (and its services) and any affiliate that is an ESP (and its services).
  - Ensuring that customer bills, letterhead, vehicles, business cards and the like do not direct consumers to an affiliate (or to a shared website) where the distributor is indistinguishable from the affiliate.
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7. The utility has taken reasonable steps to ensure that its affiliates do not imply in their marketing material any favoured treatment or preferential access to the utility’s system. Reasonable steps include, but are not limited to, the following:
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- Ensuring that customer bills, letterhead, vehicles, business cards and the like clearly identify the utility as the service provider. \_\_\_\_\_
  - Ensuring that that customer bills, letterhead, vehicles, business cards and the like distinguish between the utility (and its services) and any affiliate that is an ESP (and its services). \_\_\_\_\_
  - Ensuring that customer bills, letterhead, vehicles, business cards and the like do not direct consumers to an affiliate (or to a shared website) where the distributor is indistinguishable from the affiliate. \_\_\_\_\_
8. If the utility became aware of inappropriate marketing activity by an affiliate, it did the following: \_\_\_\_\_
- Took reasonable steps to notify affected customers of the violation. \_\_\_\_\_
  - Took the necessary steps to ensure that the affiliate was aware of the concern. \_\_\_\_\_
  - Informed the CCO in writing of the activity and the remedial measures taken by the utility. \_\_\_\_\_
  - The utility did not become aware of inappropriate marketing activity by an affiliate. \_\_\_\_\_
9. The utility has ensured that all Rate Orders and rate schedules have been applied to an affiliate in the same manner as would be applied to similarly situated non-affiliated parties. \_\_\_\_\_
10. The utility has ensured that any requests by an affiliate or its customers for access to the utility’s network or for utility services are processed and provided by the utility in the same manner as would be processed or provided for similarly situated non-affiliated parties. \_\_\_\_\_
11. The utility has transferred or assigned a consumer to an affiliate for whom the utility is providing utility services with the written consent of the customer. \_\_\_\_\_

If the utility answered “No” to any of questions above then the utility may not have met the requirements of sections 2.5.3, 2.5.4, 2.5.5, 2.5.6 and 2.5.7 of the Code.

## Confidentiality of Information

**Code Reference:** 2.6

Section 2.6 of the Code generally prohibits a utility from releasing or disclosing confidential information to an affiliate relating to a consumer, retailer or generator, without the consent of that consumer, retailer or generator, except for certain permitted purposes.

1. The distributor or transmitter has released or disclosed to an affiliate confidential information relating to a consumer, retailer or generator. \_\_\_\_\_

If the utility answered “Yes” to question 1, then the utility should proceed to answer the following questions:

2. The utility has released or disclosed to an affiliate confidential information relating to a consumer, retailer or generator without the written consent of the consumer, retailer or generator but only where required for one or more of the following:

- Billing or market operation purposes \_\_\_\_\_
- Law enforcement purposes \_\_\_\_\_
- For the purpose of complying with a legal requirement \_\_\_\_\_
- For the processing of past due accounts of the consumer which have been passed to a debt collection agency \_\_\_\_\_

3. Where confidential information was released without written consent for a purpose not listed in question 2, the information was sufficiently aggregated such that any individual consumer’s, retailer’s or generator’s information cannot reasonably be identified. \_\_\_\_\_

4. Where any confidential information was aggregated and released or disclosed to an affiliate, it was released or disclosed on a non-discriminatory basis to any party who requested that information. \_\_\_\_\_

If the utility released or disclosed confidential information other than for the purposes identified in question 2 and also answered “No” to question 3, or answered “No” to question 4, then the utility may not have met the requirements of section 2.6 of the Code. Utilities are reminded that their electricity licences also contain similar provisions relating to the release or disclosure of confidential information.