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Compliance Office

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Compliance Bulletin 200510

To: All Licensed Electricity Retailers and Licensed Natural Gas Marketers

Re: Variable Price Contracts Offered to Low-Volume Consumers

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**This Bulletin is intended to provide guidance to licensed electricity retailers and licensed gas marketers in relation to the price structure of contracts offered to low-volume consumers in the context of statutory and regulatory price disclosure obligations.**

It has come to the attention of the Compliance Office that electricity retailers and gas marketers are currently offering, or may wish to offer, contracts to low-volume consumers that consist of a variable price or that have a variable price component. Certain licensees have sought clarification as to the position of the Compliance Office in relation to such contract offerings, having regard to statutory and regulatory obligations regarding contract price disclosure.

The *Consumer Protection Regulation*, O. Reg. 200/02, (the "*Regulation*") made under the *Ontario Energy Board Act, 1998* contains prescriptive rules regarding price disclosure in contracts offered to low-volume consumers of electricity or natural gas. Specifically, under section 7(1) of the *Regulation* a contract for the provision of gas must include a statement of "the price to be paid under the contract for the provision of gas, expressed per cubic metre of gas", and a contract for the provision of electricity must include a statement of "the price to be paid under the contract for the provision of electricity, expressed per kilowatt hour of electricity". Similar requirements are found in the Code of Conduct for Gas Marketers and the Electricity Retailer Code of Conduct (collectively, the "Codes").

It is my view that the above price disclosure obligation requires that a consumer should, at a minimum, be able to readily ascertain the price per cubic meter or per kilowatt hour payable under the contract. It is also my view that contracts consisting of a variable price, or having a variable price component, and that are subject to a price cap can

meet this requirement. This view permits the development of more innovative product offerings while remaining faithful to the consumer protection intention that underlies the price disclosure obligation contained in the *Regulation* and the Codes.

Where a capped variable price is offered, I expect that electricity retailers and gas marketers will ensure that the contract specifies, in a manner that can be understood by their prospective customers, what the price cap is and how it will be applied. Electricity retailers and gas marketers are reminded that the *Regulation* contains additional obligations relating to contracts and to marketing generally in relation to low-volume consumers, and nothing in this Bulletin affects the obligation to fully comply with those requirements.

Please direct any questions you may have on this matter to the Market Participant hotline at 416-440-7604 or by e-mail at [market.operations@oeb.gov.on.ca](mailto:market.operations@oeb.gov.on.ca).



Brian Hewson  
Chief Compliance Officer  
Compliance Office

No statutory power of decision has been delegated to the Chief Compliance Officer, and the views expressed in this Compliance Bulletin 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.