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Compliance Office

March 27, 2008

Compliance Bulletin 200803

To: All Licensed Electricity Retailers  
All Licensed Gas Marketers  
All Licensed Electricity Distributors  
All Natural Gas Distributors

Re: **Service Transaction Requests  
Consumer Authorization for a Change in Competitive Supplier**

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**This Bulletin is intended to provide guidance to licensed electricity retailers and licensed natural gas marketers in relation to the consumer authorization required for Service Transaction Requests relating to a change from one competitive supplier to another.**

The Compliance Office has received enquiries regarding the submission of Service Transaction Requests ("STR") relating to a change from one competitive supplier of gas or electricity to another, and more specifically in relation to the requirement for consumer authorization in relation to those STRs.

The regulatory requirements applicable to the submission and processing of STRs are set out in the Board's Retail Settlement Code ("RSC") in relation to electricity, and in the Board's Gas Distribution Access Rule ("GDAR") in relation to gas.

### **RSC Provisions Applicable to a Change in Competitive Electricity Supplier**

Section 10.2 of the RSC states in part as follows: "[W]ith the exceptions noted in the remainder of this paragraph, all STRs listed in section 10.1 must be based on a customer's written authorization". The list of STRs in section 10.1 of the RSC includes STRs to effect a change in a consumer's supplier of electricity from one competitive retailer to another. None of the three exceptions set out in the remainder of section 10.2 apply to this particular type of STR.

Section 10.5.4 of the RSC then goes on to state in part as follows: "[I]f the new retailer,

the consumer or the current retailer (acting upon specific written authorization from the consumer to terminate the transfer) notifies the distributor, by way of written authorization that the transfer request should be terminated, the distributor shall cease processing the transfer.”

### **GDAR Provisions Applicable to a Change in Competitive Gas Supplier**

Section 1.3.1 of GDAR provides as follows: “[F]or the purposes of the Rule, any action required or permitted to be performed by a consumer may be performed by an agent authorized in writing by the consumer.”

Section 4.3.6.6 of GDAR then goes on to state as follows: “[T]he gas distributor shall continue to process the STR unless. . . the gas distributor receives written authorization from the consumer, the new gas vendor, or the current gas vendor (acting on specific written authorization from the consumer) to stop processing the STR.”

### **Requirement for Consumer Authorization**

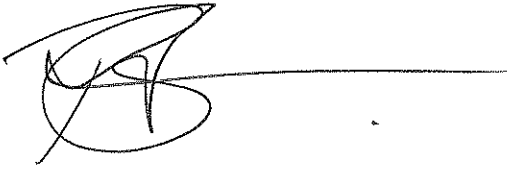
Based on the above provisions of the RSC and GDAR, separate written authorization from the consumer is, in my view, required for each of the following steps in the process applicable to a change in competitive supplier:

- i. Submission of an STR (the “Contesting STR”) requesting a change in competitive supplier.
- ii. Submission of written notice (the “Terminating Notice”) by the current retailer or the current gas marketer to terminate the processing of the Contesting STR.
- iii. Submission of a new STR (the “Post-contest STR”) by the retailer or the gas marketer that submitted the Contesting STR where processing of the Contesting STR has been terminated as a result of a Terminating Notice. This, in my view, follows from the fact that the Terminating Notice, and the consumer’s authorization that underlies it, supersedes the Contesting STR. The result is that the retailer or marketer can no longer rely on the authorization given for the submission of the Contesting STR for purposes of the submission of a Post-contest STR.

It is also my view that a retailer or marketer cannot rely on the agency provisions of its contract as providing the necessary written authorization from a consumer to submit either a Terminating Notice or a Post-contest STR. In my opinion, new authorization specific to that purpose must be obtained from the consumer.

Non-compliance with the regulatory requirements that are the subject of this Bulletin can have a significant adverse effect on consumer choice and on the competitive market in general. I therefore consider such non-compliance to be a serious violation of the Board’s regulatory requirements and one in relation to which I would consider recommending formal enforcement action.

Please direct any questions you may have on the subject matter of this Bulletin 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).

A handwritten signature in black ink, appearing to be 'BH', is written over a horizontal line that extends to the right.

Brian Hewson  
Chief Compliance Officer  
Ontario Energy Board

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.