

**Proposed**

**ELECTRICITY RETAILER  
CODE OF CONDUCT**

**Ontario Energy Board**  
October 8, 2003



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## **1 GENERAL**

### **1.1 Interpretation**

Unless otherwise defined in this Code, words and phrases shall have the meaning ascribed to them in the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B, as amended and the *Electricity Act, 1998*, S.O. 1998, c. 15, Schedule A, as amended. Nothing in this Code shall be interpreted to alter or affect the conditions of the licence of an electricity retailer, or relieve a retailer from compliance with the licence. Headings are for convenience only and shall not affect the interpretation of this Code. Words importing the singular include the plural and vice versa.

### **1.2 Definitions**

For the purposes of this Code,

"Act" means the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B;

"consumer" means a person who uses, for the person's own consumption, electricity that the person did not generate;

"consumer information" means information relating to a specific consumer obtained by a retailer or its salesperson, and includes information obtained without the consent of the consumer;

"customer" means a consumer with whom a retailer has a contract for the supply of electricity;

"Electricity Act" means the *Electricity Act, 1998*, S.O. 1998, c. 15, Schedule A;

"notice of acceptance" means the written notice to the retailer that indicates an intention of the consumer to accept the renewal or extension of a contract, as set out in section 6(2)5 of Ontario Regulation 200/02;

"notice of reaffirmation" means the written notice to the retailer that indicates an intention of the consumer to reaffirm the contract or not reaffirm the contract, as set out in section 4 of Ontario Regulation 200/02;

"residential or small business consumer" means a consumer who annually uses less than 150,000 kilowatt hours of electricity;

"retailing," for the purpose of this Code, includes door-to-door selling, telemarketing, direct mail selling activities, and any other means by which a retailer or a salesperson of a retailer interacts directly with a consumer;

"salesperson" has the meaning ascribed to it in section 88.4(4) of the Act.

### **1.3 Purpose of the Code**

This Code sets the minimum standards under which a licensed electricity retailer may retail electricity. Specific requirements may apply for retailing to residential or small business consumers. The Board may exempt a retailer from compliance with this Code, in whole or in part, subject to such conditions or restrictions as the Board may determine. From time to time, amendments may be made to this Code by the Board in accordance with the Act.

### **1.4 Obligation to comply with the law**

A retailer shall comply with the Act, the Electricity Act and regulations made under those Acts, including Part V.1 of the Act and O. Reg. 200/02. Nothing in this Code affects the obligation of a retailer and its salespersons to comply with provincial and federal law.

### **1.5 Obligation to ensure salespersons comply**

A retailer shall ensure that its salespersons adhere to the same standards required of the retailer as set out in this Code.

### **1.6 Coming into force**

This Code is in effect as of the date it is published on the Board's website, and replaces the Electricity Retailer Code of Conduct issued August 18, 1999.

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## 2 FAIR MARKETING PRACTICES

- 2.1 A retailer or salesperson of a retailer, when retailing to a consumer, shall:
- (a) immediately and truthfully give the name of the salesperson and the retailer to the consumer, and state that the retailer offering a contract for the supply of electricity is not the consumer's local electricity distributor;
  - (b) state the price to be paid under the contract for the supply of electricity, expressed per kilowatt hour of electricity, and state the term of the contract;
  - (c) not exert undue pressure on a consumer;
  - (d) allow the consumer sufficient opportunity to read all documents provided;
  - (e) not make any offer or provide any promotional material to a consumer that is inconsistent with the contract being offered to or entered into with the consumer;
  - (f) immediately inform the consumer if, for any reason, that consumer's voice is being recorded;
  - (g) clearly indicate that the offer is not being made by a regulated distribution company, and not seek to mislead or otherwise create any confusion in the mind of a consumer about the identity of the marketer, its promotion campaigns or trade mark, or those of competitors or the regulated distribution company;
  - (h) not make any representation or statement or give any answer or take any measure that is false or is likely to mislead a consumer with regard to any term in an offer;
  - (i) provide only timely, accurate, verifiable and truthful comparisons;
  - (j) not make any verbal representations regarding contracts, rights or obligations unless those representations are contained in the written offer; and
  - (k) if retailing to a residential or small business consumer at a place other than the retailer's place of business, display a photograph of the salesperson, with the salesperson's name and the name of the retailer.



- 2.2 Where a retailer has a contract with a consumer that has a remaining term greater than 120 days, the retailer shall not enter into a new contract with that consumer that will amend, revoke or replace the existing contract, unless the retailer first clearly informs the consumer in writing of the existing contract, its price, remaining term, and the fact that it will be amended, revoked or replaced if the consumer signs the new contract. The retailer shall provide this same information to the consumer as part of the process of attempting to obtain a notice of reaffirmation of the new contract.

### **Transfer requests**

- 2.3 A retailer shall not request a distributor to allow the retailer to supply electricity to a consumer unless the retailer has the permission of the consumer in writing to do so. In the case of residential or small business consumers, the retailer shall not make the request until the retailer has received the notice of reaffirmation from the residential or small business consumer.
- 2.4 If a retailer discovers that it has submitted a service transaction request to a distributor supported by a contract that does not comply with the Act, the Regulations, the Electricity Retailer's Licence or this Code, or not containing the signature of the consumer, the retailer shall immediately take all necessary steps to cancel the service transaction request.

### **Contracts with residential or small business consumers**

- 2.5 In addition to any requirements imposed by law, a contract between a retailer and a residential or small business consumer shall clearly state:
- (a) the time period for which the contract is in effect;
  - (b) the type and frequency of bills the consumer will receive; and
  - (c) any terms and conditions for renewal.

- 2.6 A retailer shall not enter into any contract with a residential or small business consumer that has a term of more than five years.

**Renewal of residential or small business consumer contracts**

- 2.7 A retailer shall not renew or extend a contract with a residential or small business customer if, within the last year before the contract expires, the customer notifies the retailer in writing that the customer does not wish to renew or extend the contract.

**Prohibition against unfair practices**

- 2.8 A retailer shall not engage in any unfair practice, as defined by the Act and regulations.

### **3 CONSUMER COMPLAINTS RESOLUTION PROCESS FOR RESIDENTIAL AND SMALL BUSINESS CONSUMERS**

- 3.1 A retailer shall provide to its residential and small business customers and prospective customers in all written offers, contracts and renewal forms, the telephone number of the retailer's customer service centre and the telephone number of the Ontario Energy Board Customer Service Centre.
- 3.2 If any residential or small business consumer makes a complaint to a retailer regarding retailing by the retailer or its salespersons, the conduct of the retailer's salespersons, the contract the consumer has with the retailer, or any other matter related to the retailer, the retailer shall expeditiously investigate the complaint and take all appropriate and necessary steps to resolve the complaint. If the complaint is not resolved to the satisfaction of the consumer, the retailer shall provide to the consumer the telephone number of the Ontario Energy Board Customer Service Centre.
- 3.3 If resolution of a complaint is reached after the complaint has been made to the Ontario Energy Board Customer Service Centre, the retailer shall implement the resolution immediately and shall confirm, in writing, implementation of the resolution with the Ontario Energy Board Customer Service Centre.

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#### **4 SERVICES AND INFORMATION TO BE MAINTAINED BY AN ELECTRICITY RETAILER**

- 4.1 A retailer shall have a current mailing address in Ontario and a current telephone number listed in Ontario which may be reached by the general public without charge, and shall provide them to every customer.
- 4.2 A retailer shall maintain on file, and provide to the Board upon request:
- (a) a current list of salespersons who act for that retailer;
  - (b) a list of the retailer's customers;
  - (c) permission from each customer, signed by the customer, to submit a request to an electricity distributor to allow the retailer to supply electricity to the customer;
  - (d) the contract with each customer, with the customer's signature, to purchase electricity from the retailer or for the retailer to purchase electricity as agent for the customer, for as long as the contract or any renewal of it is in effect;
  - (e) for contracts entered on or after July 1, 2002, the notice of reaffirmation of the contract by the customer, for as long as the contract or any renewal of it is in effect;
  - (f) for contracts renewed or extended on or after August 1, 2002, the notice of acceptance of the renewal or extension from the customer, for as long as the contract or any renewal of it is in effect; and
  - (g) such other information as the Board may reasonably require.
- 4.3 Where a contract was entered into in an electronic format, as "electronic" is defined in the *Electronic Commerce Act*, S.O. 2000, c.17, the retailer shall retain that document in accordance with the requirements of s. 12(2) of the *Electronic Commerce Act*, for at least as long as the contract or any renewal of it is in effect.

- 4.4 Where a contract was entered into in a non-electronic format, the retailer shall retain the original signed paper copy for as long as the contract or any renewal of it is in effect.

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**5 CONFIDENTIALITY OF CONSUMER INFORMATION**

- 5.1 A retailer shall not disclose consumer information as defined in this Code to any person other than the consumer or the Board without the consent of the consumer in writing, except when the information has been sufficiently aggregated such that an individual consumer's information cannot be identified, or where consumer information is required to be disclosed:
- (a) for billing or market operation purposes;
  - (b) for law enforcement purposes;
  - (c) to comply with a statute or an order of a court or tribunal;
  - (d) when past due accounts of the consumer have been passed to a debt collection agency; or
  - (e) for the purpose of complying with the Market Rules.
- 5.2 A retailer shall inform consumers regarding the conditions described in paragraph 5.1 under which consumer information may be released to a third party without the consumer's consent.
- 5.3 A retailer shall not use consumer information obtained for one purpose from a consumer for any other purpose without the consent of the consumer in writing.

**6 TRANSFER AND ASSIGNMENT OF CONTRACTS**

- 6.1 A retailer shall not sell, transfer or assign a contract with a customer to another person who is not a licensed electricity retailer.
- 6.2 A retailer must notify the Board of any proposed sale, transfer or assignment of contracts before the sale, transfer or assignment takes place.
- 6.3 Within 60 days of any sale, transfer or assignment of a contract to another retailer, the new retailer must notify the affected customers of the new retailer's address for service and telephone number.

**7 BREACH OF THIS CODE**

- 7.1 In addition to other penalties provided for under the Act, the licence of a retailer can be suspended or revoked if the licence holder does not comply with this Code.
  
- 7.2 A breach of this Code may occur in the course of retailing even if no contract is entered into.