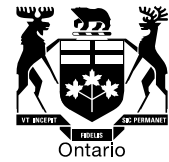


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**NOTICE OF PROPOSAL TO ISSUE A CODE**  
**PROPOSED ELECTRICITY RETAILER CODE OF CONDUCT**

**BOARD FILE NO: RP-2003-0213**

October 23, 2003

To: All Interested Persons

On August 18, 1999, the Ontario Energy Board issued the Electricity Retailer Code of Conduct ("the August 18, 1999 Code"). All licensed electricity retailers in the province must comply with the provisions of this Code as a condition of licence.

Bill 58, the *Reliable Energy and Consumer Protection Act, 2002*, received Royal Assent on June 27, 2002. The new Part V.1, of the *Ontario Energy Board Act, 1998* ("the Act"), the "Energy Consumers' Bill of Rights," came into effect on July 1, 2002. The Government also made the related Regulation 200/02.

Bill 210, the *Electricity Pricing, Conservation and Supply Act, 2002*, received Royal Assent on December 9, 2002. Ontario Regulations 340/02, 194/03 and 261/03 amended Ontario Regulation 200/02.

Due to these legislative changes, the Board is proposing a number of changes to the August 18, 1999 Code. The Board's ***Proposed Electricity Retailer Code of Conduct*** (the "Code"), as revised, is attached to this notice. It is intended that the Code will be incorporated by reference as a condition of Electricity Retailer licences.

**The Board will not be granting cost awards in this consultation.**

The main purpose of the changes to the Code is to respond to the legislation made by the Government by refocusing the Code on requirements that support the legislation. Several provisions of the Code have been removed. New provisions have been added with the intent to protect consumers and ensure appropriate conduct by electricity retailers.

The Board anticipates that parties will benefit from the alignment of the Code and the legislation governing electricity retailer conduct and consumer protection. In particular, the Board proposes to achieve this by:

- deleting provisions in the Code that are contained in the Act and Regulations; and
- rewording provisions to align them with references in the legislation to Board codes.

Further, the Board proposes to enhance consumer protection by:

- adding a provision to require an electricity retailer, when marketing to a consumer, to inform the consumer if that consumer's voice is being recorded;
- adding a provision to require an electricity retailer to remind any consumer, who is under an existing contract with that retailer, of the terms and conditions of that contract, including price, before signing them up to a new contract;
- adding provisions to help prevent requests to switch a consumer's energy supply to a new electricity retailer prior to contract reaffirmation;
- adding a provision to require the retention of original contracts and to recognize the possibility of electronic contracts;
- adding a provision to prevent renewal of the contracts of residential and small business customers who have clearly indicated they do not want their contracts renewed; and
- revision of the provisions which set out the consumer complaint resolution process to recognize current practice and the role of the OEB Customer Service Centre.

The Board also proposes a number of minor changes that would result in a more consistent and clear Code. For example, a Code need not repeat definitions that are in legislation.

A synopsis of the proposed changes in each chapter of the Electricity Retailer Code of Conduct is attached to this notice to enable comparison of the April 18, 1999 Code to the proposed Code.

It is anticipated that electricity distributors will incur minimal costs due to the proposed changes to the Code. It is anticipated that costs will be incurred by electricity retailers to comply with provisions of the Code relating to changes in business processes and computer systems to be able to remind consumers of existing contract terms and conditions, retention of original contracts and records of communication from customers regarding renewal, and increased consumer communication. The Board anticipates that these costs will not be excessive.

Consumers will benefit from the expanded consumer communication obligations put on electricity retailers. Consumers will also benefit from several proposed changes to the Code which facilitate prompt implementation of any agreed upon complaint resolution, and assist the Board in better monitoring electricity retailer conduct and enforcing the Code. Consumer complaints should be reduced and their resolution facilitated by the requirement to retain original contracts and a record of customer communications regarding future contract renewal, and the requirement to remind customers of existing contracts. Consumers and electricity retailers should benefit from complaint reductions and facilitated resolution.

It is anticipated that both consumers and electricity retailers will benefit from the requirement for a toll-free telephone number as it will improve access to electricity retailer services by the general public. Consumers, electricity distributors and electricity retailers should benefit from provisions preventing premature transfer requests. All stakeholders will benefit from a better fit between the Code and current legislation.

In proposing this Code, the Board is of the view that anticipated consumer protection benefits outweigh anticipated costs incurred.

Written representations with respect to the Proposed Code are invited. Any person who wishes to make a written representation with respect to the Code **must** file nine (9) paper copies of the representation, and an electronic copy in Adobe Acrobat (PDF), or WordPerfect or Word, if possible, with the Assistant Secretary by **4:30 p.m.** on **November 20, 2003**. The Board requests that the representation specifically reference the relevant sections of the Code. Your submission must quote file number **RP-2003-0213** and include your name, address, e-mail address and fax number.

The Code and the written representations received by the Board with respect to the Code will be available for public inspection on the Board's website at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca) and at the office of the Board during normal business hours.

If you have any questions regarding the Code, please contact Jim MacDougall at 416 440-8141 or Lisa Brickenden at 416 440-8113, or toll free 1-888-632-6273.

Dated at Toronto, October 23, 2003

*original signed by*

Paul B. Pudge  
Assistant Secretary, Ontario Energy Board

Attachments:

Synopsis of Proposed Changes to Electricity Retailer Code of Conduct  
Proposed Electricity Retailer Code of Conduct

**SYNOPSIS OF PROPOSED CHANGES TO  
THE ELECTRICITY RETAILER CODE OF CONDUCT  
BOARD FILE NO: RP-2003-0213**

- Section 1 of the Code provides fewer definitions, states that words have the meaning ascribed to them in the *Ontario Energy Board Act, 1998* and the *Electricity Act, 1998*, and addresses the compliance obligations of a electricity retailer and its salespersons.
- Section 2 of the Code contains some of the provisions in former sections 2.1, 2.2, 2.5, 2.6 and 2.7, where they have not been superceded by legislation. Where consumer protection provisions that previously appeared in the Code are not in the legislation, they have generally been retained. The Proposed Electricity Retailer Code of Conduct contains several provisions that are not contained in the Proposed Code of Conduct for Gas Marketers. This is due to the fact that while the Board licenses retailers who retail to all consumers, Part V.1 of the OEB Act and Regulation 200/02 apply only to consumers who consume less than the prescribed amount of electricity. The proposed Code covers retailing to all consumers, and some of the provisions are retained so as to not reduce the protection provided to larger consumers. Several new obligations are also proposed, including notification to consumers of voice recording and of a pre-existing contract. Two provisions to prevent premature or unauthorized transfer requests have been added, as well as prohibitions against renewal when a customer has indicated that renewal is not desired, and against unfair practices.
- Section 3 of the Code deals with consumer complaints (previously section 2.9) and has been re-written to recognize current practice and the role of the OEB Customer Service Centre.
- Section 4 of the Code deals with services and information to be maintained by an Electricity Retailer (previously sub-section 2.2.3 and section 2.3), including a new provision to require the retention of original contracts and to recognize the possibility of electronic contracts.
- Section 5 of the Code deals with confidentiality of consumer information (previously dealt with in section 2.4).
- Section 6 of the Code (formerly section 2.8) deals with the transfer and assignment of contracts including a new provision requiring notice to the Board of proposed transfers.
- Section 7 of the Code deals with breach of this Code (previously dealt with in section 2.10).