

Proposed

**CODE OF CONDUCT  
for GAS MARKETERS**

**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. Nothing in this Code shall be interpreted to alter or affect the conditions of the licence of a gas marketer, or relieve a gas marketer 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 annually uses less than 50,000 cubic metres of gas;

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

"customer" means a consumer with whom a gas marketer has a contract for the supply of gas;

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

"notice of acceptance" means the written notice to the gas marketer 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 gas marketer 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;

"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 gas marketer may market gas. The Board may exempt a gas marketer 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 gas marketer shall comply with the Act and regulations made under the Act, including Part V.1 of the Act and O. Reg. 200/02. Nothing in this Code affects the obligation of a gas marketer and its salespersons to comply with provincial and federal law.

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

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

## **1.6 Coming into force**

This Code in is effect as of the date it is published on the Board's website, and replaces the Gas Marketer Code of Conduct issued March 2, 1999.

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## 2 FAIR MARKETING PRACTICES

- 2.1 A gas marketer or salesperson of a gas marketer, when marketing to a consumer, shall:
- (a) immediately and truthfully give the name of the salesperson and the gas marketer to the consumer, and state that the gas marketer offering a contract for the supply of gas is not the consumer's local gas distributor;
  - (b) state the price to be paid under the contract for the supply of gas, expressed per cubic metre of gas, 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; and
  - (g) display a photograph of the salesperson, with the salesperson's name and the name of the gas marketer, if marketing at a place other than the gas marketer's place of business.
- 2.2 Where a gas marketer has a contract with a consumer that has a remaining term greater than 120 days, the gas marketer shall not enter into a new contract with that consumer that will amend, revoke or replace the existing contract, unless the gas marketer 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 gas marketer 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 gas marketer shall not request a distributor to allow the gas marketer to supply gas to a consumer unless the gas marketer has the permission of the consumer in writing to do so, and has received the notice of reaffirmation from the consumer.
- 2.4 If a gas marketer discovers that it has submitted a transfer request to a distributor supported by a contract that does not comply with the Act, the Regulations, the Gas Marketer's Licence or this Code, or does not contain the signature of the consumer, the gas marketer shall immediately take all necessary steps to cancel the transfer request.

**Contracts**

- 2.5 In addition to any requirements imposed by law, a contract between a gas marketer and a 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 gas marketer shall not enter into any contract with a consumer that has a term of more than five years.

**Renewal**

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

**Prohibition against unfair practices**

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

**3 CONSUMER COMPLAINTS**

- 3.1 A gas marketer shall provide to its customers and prospective customers in all written offers, contracts and renewal forms, the telephone number of the gas marketer's customer service centre and the telephone number of the Ontario Energy Board Customer Service Centre.
- 3.2 If any consumer makes a complaint to a gas marketer regarding marketing by the gas marketer or its salespersons, the conduct of the gas marketer's salespersons, the contract the consumer has with the gas marketer, or any other matter related to the gas marketer, the gas marketer 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 gas marketer 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 gas marketer 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 A GAS MARKETER**

- 4.1 A gas marketer 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 gas marketer shall maintain on file, and provide to the Board on request:
- (a) a current list of salespersons who act for that gas marketer;
  - (b) a list of the gas marketer's customers;
  - (c) permission from each customer, signed by the customer, to submit a request to a gas distributor to allow the gas marketer to supply gas to the customer;
  - (d) the contract with each customer, with the customer's signature, to purchase gas from the gas marketer or for the gas marketer to purchase gas 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 gas marketer 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.

**5 CONFIDENTIALITY OF CONSUMER INFORMATION**

- 5.1 A gas marketer 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's consumer 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; or
  - (d) when past due accounts of the consumer have been passed to a debt collection agency.
- 5.2 A gas marketer 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 gas marketer 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 gas marketer shall not sell, transfer or assign a contract with a customer to another person who is not a licensed gas marketer.
- 6.2 A gas marketer 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 gas marketer, the new gas marketer must notify the affected customers of the new gas marketer'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 gas marketer 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 gas marketing even if no contract is entered into.