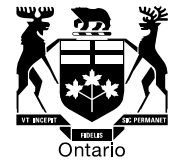


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NOTICE OF PROPOSAL TO MAKE A RULE
PROPOSED CODE OF CONDUCT FOR GAS MARKETERS

BOARD FILE NO: RP-2003-0213

October 23, 2003

To: All Interested Persons

On March 2, 1999, the Ontario Energy Board exercised its authority under section 44 of the *Ontario Energy Board Act, 1998* (the "Act") to make the Code of Conduct for Gas Marketers ("the March 2, 1999 Rule").

Bill 58, the *Reliable Energy and Consumer Protection Act, 2002*, received Royal Assent on June 27, 2002. The new Part V.1 of 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 March 2, 1999 Rule. The Board's ***Proposed Code of Conduct for Gas Marketers*** (the "Rule"), as revised, is attached to this notice.

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

The main purpose of the changes to the Rule is to respond to the legislation made by the Government by refocusing the Rule on requirements that support the legislation. Several provisions of the Rule have been removed. New provisions have been added with the intent to protect consumers and ensure appropriate conduct by gas marketers, pursuant to subsection 44(1)(c) of the Act.

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

- deleting provisions in the Rule 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 a gas marketer, when marketing to a consumer, to inform the consumer if that consumer's voice is being recorded;
- adding a provision to require a gas marketer to remind any consumer, who is under an existing contract with that marketer, 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 gas marketer 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 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 Rule. For example, a Rule need not repeat definitions that are in legislation.

A synopsis of the proposed changes in each chapter of the Code of Conduct for Gas Marketers is attached to this notice to enable comparison of the March 2, 1999 Rule to the proposed Rule.

It is anticipated that gas distributors will incur minimal costs due to the proposed changes to the Rule. It is anticipated that costs will be incurred by gas marketers to comply with provisions of the Rule 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 gas marketers. Consumers will also benefit from several proposed changes to the Rule which facilitate prompt implementation of any agreed upon complaint resolution, and assist the Board in better monitoring gas marketer conduct and enforcing the Rule. 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 gas marketers should benefit from complaint reductions and

facilitated resolution.

It is anticipated that both consumers and gas marketers will benefit from the requirement for a toll-free telephone number as it will improve access to gas marketer services by the general public. Consumers, gas distributors and gas marketers should benefit from provisions preventing premature transfer requests. All stakeholders will benefit from a better fit between the Rule 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 Rule are invited. Any person who wishes to make a written representation with respect to the Rule **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 Rule. Your submission must quote file number **RP-2003-0213** and include your name, address, e-mail address and fax number.

The Rule and the written representations received by the Board with respect to the Rule will be available for public inspection on the Board's website at www.oeb.gov.on.ca and at the office of the Board during normal business hours.

If you have any questions regarding the Rule, 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 Code of Conduct for Gas Marketers
Proposed Code of Conduct for Gas Marketers

**SYNOPSIS OF PROPOSED CHANGES TO
THE CODE OF CONDUCT FOR GAS MARKETERS
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 addresses the compliance obligations of a gas marketer 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. Several new obligations are 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 a Gas Marketer (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).