

**Proposed**

**CODE OF CONDUCT  
for GAS MARKETERS**

**Ontario Energy Board**  
June 2, 2004



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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.

**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) not make any representation or statement or give any answer or take any measure that is false or is likely to mislead a consumer; and
  - (g) if marketing at a place other than the gas marketer's place of business, display a photograph of the salesperson, with the salesperson's name and the name of the gas marketer.
- 2.2 Where a gas marketer has a contract with a customer that has a remaining term greater than 120 days, and the gas marketer has offered that customer a new contract that will amend, revoke or replace the existing contract, the gas marketer, as part of the process of reaffirmation of the new contract, must clearly inform the customer of the existing contract, its price, remaining term, and the fact that it will be amended, revoked or replaced if the customer reaffirms the new contract.



**Transfer requests**

- 2.3 A gas marketer shall not:
- (a) submit a request to a gas distributor for a change of gas supply for a consumer to that gas marketer unless the gas marketer has the permission of the consumer in writing to do so; or
  - (b) 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, where reaffirmation is required.
- 2.4 If a gas marketer discovers that it has submitted a transfer request to a gas 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 contact the affected consumer, clearly explain the non-compliance, and offer that consumer a compliant contract; and
- (a) if the consumer accepts the compliant contract, provide a copy of the compliant contract to the consumer within 14 days of acceptance by that consumer; or
  - (b) if the consumer does not accept the compliant contract, immediately reverse 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 If, within the last year of a contract, a customer notifies a gas marketer in writing that the customer does not wish to renew or extend the contract, the gas marketer shall not renew or extend the contract unless the gas marketer reminds the customer of the notice and obtains positive acceptance of the renewed contract from the customer.

**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 In cases where a consumer complaint has been referred to the gas marketer from the Ontario Energy Board and resolution of that complaint is reached, the gas marketer shall implement the resolution immediately and shall confirm this, in writing, with the Ontario Energy Board.

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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; and
  - (b) for as long as contracts with customers or any renewal of them are in effect:
    - (i) a list of the gas marketer's customers;
    - (ii) permission from each customer, signed by the customer, to submit a request for a change of gas supply;
    - (iii) 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;
    - (iv) where reaffirmation of a contract is required, the notice of reaffirmation of the contract by the customer; and
    - (v) where notice of acceptance of contract renewal or extension is required, the notice of acceptance of the renewal or extension from the customer.

**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 sale, transfer or assignment of contracts within 10 days of the sale, transfer or assignment.
- 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.