

Ontario Energy  
Board

Commission de l'énergie  
de l'Ontario



**EB-2011-0314**

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*,  
S.O. 1998, c. 15, (Schedule B);

**AND IN THE MATTER OF** a Notice of Intention to Make an  
Order for Revocation of a Licence against MxEnergy Canada  
Ltd. ("MxEnergy"), Licence Number GM-2008-0025

## **I. INTRODUCTION**

By Notice of Intention to Make an Order (the "Notice") under section 112.4 of the *Ontario Energy Board Act, 1998*, (the "Act") for revocation of licence issued August 25, 2011 the Board announced that it intended to make an order against MxEnergy for revocation of licence. Pursuant to s. 112.2(4) MxEnergy was advised that it may, within 15 days after receiving the notice, give notice to the Board requiring the Board to hold a hearing. MxEnergy has elected not to request a hearing and in order to fully and finally resolve this matter MxEnergy is prepared to admit the deficiency set out in the Notice and to enter into this Assurance of Voluntary Compliance.

## **II Assurance of Voluntary Compliance**

### **Contract renewals without filing a Certificate of Compliance**

MxEnergy reported 29 renewals of gas contracts for the period January 1, 2011 to March 31, 2011 as part of its filings under the Board's Reporting and Record Keeping Requirements ("RRR").

MxEnergy admits to the following deficiency set out in the Notice:

1. MxEnergy renewed 29 gas contracts during the first quarter of 2011 without filing a Certificate of Compliance with the Board; contrary to section 3 of Ontario Regulation 90/99 and section 6.1 of the Code of Conduct for Gas Marketers.

Subsequent to the issuance of the Notice of Intention to Make an Order for Revocation MxEnergy has filed a Certificate of Compliance with the Board. MxEnergy has also advised the Board that additional consumers may have renewed or have a pending renewal of their contract since the March 31<sup>st</sup> RRR filing.

MxEnergy commits to communicating with each consumer that has renewed or has a pending renewal of their contract since January 1, 2011 in a form set out in the attached Appendix A.

MxEnergy commits to ensuring that, effective as of the date of this Assurance, MxEnergy will correct its instances of noncompliance and act in accordance with its licence obligations as set out in section 3 of Ontario Regulation 90/99 and section 6.1 of the Code of Conduct for Gas Marketers.

### **IV Administrative Monetary Penalty**

MxEnergy agrees to pay an administrative monetary penalty in the amount of \$50,000 to the Board by way of certified cheque payable in four equal installments:

1. October 1, 2011 - \$12, 500
2. November 1, 2011 - \$12, 500
3. December 1, 2011 - \$12, 500
4. January 1, 2012 - \$12, 500

## **V Reporting Requirements**

MxEnergy will report to the Board on a monthly basis with respect to the steps taken by MxEnergy in informing any consumers who renewed their contracts with MxEnergy since January 1, 2011 of their right to cancel the contract. The report should include confirmation of communication to these consumers (date, name of account holder, account number,).


## **VI Consumer Rights**

Nothing in this Assurance affects any rights a consumer may have under his or her contract, the ECPA or any other law.

## **VII Failure to Comply**

This Assurance has the same force and effect as an order of the Board pursuant to section 112.7(2) of the Act and any failure to comply with its terms shall be deemed to be a breach of an order of the Board.

I have authority to bind MxEnergy Canada Ltd. to the terms set out in this Assurance of Voluntary Compliance:

  
Name: *Chaitu Parikh, President & CEO*  
Dated: September 12, 2011



3219 Yonge Street, Box 404  
Toronto ON M4N 3S1  
www.mxenergy.com

Dear Valued Customer,

On January 1, 2011, new energy consumer protection legislation<sup>1</sup> came into effect in Ontario that, among other things, requires natural gas suppliers to file a certificate of compliance before entering into or renewing natural gas retail contracts, and conform to a prescribed form of contract. It has recently come to MxEnergy (Canada) Ltd.'s ("MxEnergy's") attention that for certain customers renewing their contracts since January 1, 2011, we have not complied with those new requirements. We have therefore taken immediate steps with the Ontario Energy Board to remedy the situation that include:

- Notifying each of our potentially affected customers of our error and providing you with the right to cancel your contract with MxEnergy at no cost to you and in accordance with all applicable legal and regulatory requirements. If you wish to cancel your contract please notify us of your intention to do so by returning the attached cancellation form and retaining the "tear-off" portion for your records. MxEnergy will then cancel your contract and ensure that you are switched back to receiving service from your utility.
- Voluntarily correcting the situation by filing a certificate of compliance and entering into a published assurance of voluntary compliance with the Ontario Energy Board, and
- Paying an administrative monetary penalty to the Ontario Energy Board.

We would like to apologize for any inconvenience that this may have caused you and we are happy to answer any questions that you may have. Please feel free to contact us at: 1.877.264.1104 Monday through Friday 8:00am to 8:00pm EDT.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Chaitu Parikh'.

Chaitu Parikh  
President and CEO, MxEnergy (Canada) Ltd.

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<sup>1</sup> Energy Consumer Protection Act, 2010 and supporting rules, codes and regulations.



3219 Yonge Street, Box 404  
Toronto ON M4N 3S1  
www.mxenergy.com

Contract No. \_\_\_\_\_  
Name of Account Holder  
Account Number  
Address

Please cancel my contract with MxEnergy (Canada) Ltd. for the supply of my natural gas. I understand that the cancellation will be effective on the day gas ceases to be provided under the contract, at which time I will receive my natural gas from the local utility at their then current rate.

Name of Account Holder  
Account Number

Signature \_\_\_\_\_  
Date

*Please mail this form to MxEnergy, 3219 Yonge Street, Box 404, Toronto, ON M4N 3S1, or email MxEnergy with your request to cancel your contract at [customercare@mxenergy.com](mailto:customercare@mxenergy.com) or call at 877.264.1104*

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TEAR-OFF FORM

Contract No. \_\_\_\_\_  
Name of Account Holder  
Account Number  
Address  
Date

*Please retain this portion of the form for your records.*