



EB-2011-0312

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 Compliance and an Administrative Penalty against
Just Energy Ontario L.P., Licence Numbers ER-2010-0153
and GM-2010-0152

**NOTICE OF INTENTION TO MAKE AN ORDER FOR COMPLIANCE AND TO
IMPOSE AN ADMINISTRATIVE PENALTY UNDER s. 112.3 and 112.5 of the
*ONTARIO ENERGY BOARD ACT, 1998***

The Ontario Energy Board (the "Board"), on its own motion under section 112.2 of the *Ontario Energy Board Act, 1998* (the "Act"), intends to make an Order under sections 112.3 and 112.5 of the Act requiring Just Energy Ontario L.P. ("Just Energy") to comply with a number of enforceable provisions as defined in section 3 of the Act and to pay an administrative penalty in the amount of \$50,000 for breaches of enforceable provisions.

Ernst and Young LLP (E&Y) was retained by the Board to conduct compliance inspections of Just Energy's operations in order to ensure compliance with all applicable legal and regulatory requirements pertaining to consumer protection. In order to carry out the inspection, E&Y staff required access to relevant data related to Just Energy's transactions and processes, as well as access to information in their data systems. E&Y provided a final report of its findings to Board staff along with supporting documentation. Board staff then reviewed the findings.

ALLEGATIONS OF NON COMPLIANCE

It is alleged that Just Energy has contravened sections of Ontario Regulation 90/99, Ontario Regulation 389/10, section 12 of the *Energy Consumer Protection Act, 2010* (the “ECPA”) and the Electricity Retailer Code of Conduct and the Code of Conduct for Gas Marketers (the “Codes”).

PARTICULARS

The particulars in support of the allegations set out in this Notice are as follows:

Requirements for Identification Badges

1. A review of one standard form Identification Badge issued to all salespersons who meet in person with low-volume consumers fails to state that the salesperson is (a) not associated with any electricity or gas distributor or government contrary to section 6 of Ontario Regulation 90/99; and (b) not a representative of the consumer’s electricity or gas distributor and is not associated with the Ontario Energy Board or the Government of Ontario; contrary to section 2.4(a) of the Codes.
2. As the Identification Badges are non-compliant with the legal and regulatory requirements it is likely that salespersons using these Identification Badges are engaged in an unfair practice as defined in section 5(6)(i) of Ontario Regulation 389/10; contrary to section 10 of the ECPA and section 1.1(c) and section 2.3 of the Codes.

Contract content requirements for renewal contracts and renewal forms

3. In 19 of 25 electricity transactions reviewed (sample numbers 1, 3-5, 7-11, and 16-25) and in 18 of the 25 gas transactions reviewed (sample numbers 1, 3-5, 7-12, 14, 16, 17, 19, 20, 21, 23, 25), Just Energy failed to state its licence number issued under the Act; contrary to section 7(1)2 of Ontario Regulation 389/10 and section 12 of the ECPA. A list of the contract numbers for each sample reviewed is attached hereto at Appendix “A”.

4. In the 25 gas contracts reviewed the gas contract fails to include information about whether the contract may be assigned by either Just Energy or the consumer and any provisions relating to an assignment; contrary to section 7(1)14 of Ontario Regulation 389/10 and section 12 of the ECPA. A list of the contract numbers for each sample reviewed is attached hereto at Appendix "A".
5. In each of the renewal transactions reviewed for both electricity and gas the renewal form does not contain the telephone number of the Board's Consumer Relations Centre; contrary to section 7.1 of the Codes.

Disclosure Statements and Price Comparison Documents

6. Just Energy, in one transaction for electricity (Contract number 8853479) and in one transaction for gas (Contract Number 8860165) sent the consumer the incorrect version of the disclosure statement (dated October 15, 2010); contrary to section 8(1) of Ontario Regulation 389/10, section 12 of the ECPA and section 4.1 of the Codes.
7. In reviewing a price comparison document (Contract number 8856313) Just Energy sent the consumer an incorrect version of the price comparison document (Union Gas instead of Enbridge) contrary to section 8(3) of Ontario Regulation 389/10 and section 12 of the ECPA and section 4.6(a) of the Code of Conduct for Gas Marketers.
8. In a gas renewal transaction (Contract number 6064233), based on the consumer's address, the incorrect price comparison was provided to the consumer (specifically the Union gas Eastern price comparison was provided as opposed to the Union Gas Northern price comparison); contrary to section 8(3) of Ontario Regulation 389/10, section 12 of the ECPA and section 4.6(a) of the Code of Conduct for Gas Marketers.

Renewal Calls

9. In one of the 15 positive electricity renewal calls reviewed, (Contract number 6123344) the Just Energy representative confirmed the name of the consumer

however did not confirm if he/she was speaking to the account holder or the account holder's agent contrary to section 15(4)(c) of Ontario Regulation 389/10, section 18 of the ECPA and sections 4.13 and 4.14(a) of the Electricity Retailer Code of Conduct.

10. In one of the 15 positive gas renewal calls reviewed (Contract number 1714116) the Just Energy representative confirmed the name of the consumer however did not confirm if he/she was speaking to the account holder or the account holder's agent, didn't advise the consumer that the telephone call was being recorded, and omitted steps 5, 7 to 12 and 16 to 18 of the Board-approved script; contrary to section 15(4)(c) of Ontario Regulation 389/10, section 18 of the ECPA and sections 4.13 and 4.14(a) of the Code of Conduct for Gas Marketers.

Momentis Independent Representatives

Just Energy has an affiliate company, Momentis, through which multi-level marketing is performed. Momentis independent representatives use network marketing with Just Energy's programs and are then paid a commission if the consumer enters into a contract. Momentis representatives attend at friends' and families' homes and refer consumers to their own personal websites. All Momentis contracts are entered into over the internet.

Momentis representatives are acting as "salespersons" as defined in section 2 of the ECPA in that they are acting as persons who are engaged in an activity, the purpose of which is effecting sales of gas or electricity with consumers on behalf of a gas marketer or electricity retailer. During the inspection, Just Energy confirmed that it does not consider Momentis representatives to be salespersons and Momentis representatives are not given ID badges and business cards.

11. Momentis representatives fail to wear ID badges when calling on a consumer in person; contrary to section 6 of Ontario Regulation 90/99 and section 5(6)(i) and (ii) of Ontario Regulation 389/10.

THEREFORE TAKE NOTICE that Just Energy may request, within fifteen days after receiving this Notice, that the Board hold a hearing on these matters. If no request for hearing is made within this time period, the Board may proceed to make an Order that Just Energy comply with any of the enforceable provisions listed in this Notice and that Just Energy pay an administrative penalty.

FURTHER TAKE NOTICE that if a hearing is requested, the Board is not bound by the above noted penalty and has discretion, upon finding a contravention(s) of the Act, to make any order it deems appropriate under sections 112.3 and/or 112.5 of the Act. Just Energy is entitled to be present at the hearing with or without counsel and to adduce evidence and make submissions. Should Just Energy fail to attend, the hearing may be conducted in its absence and Just Energy will not be entitled to any further notice in the proceeding.

In order to respond to this Notice and request a hearing, Just Energy must file 3 copies of this request with the office of the Board Secretary at the following address:

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, Ontario
M4P 1E4
Attention: Board Secretary
Email: Boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273
Fax: 416-440-7656

If a hearing is requested it will proceed before a Panel of the Board, at the offices of the Ontario Energy Board, 2300 Yonge Street, Toronto, Ontario, on a date to be set by the Board.

DATED at Toronto, August 25, 2011

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

Appendix A
Just Energy Ontario L.P.
EB-2011-0312

Renewal Contracts

Electricity

Sample Number	Contract Number
1	3004284
3	4041344
4	4503842
5	4515584
7	6021936
8	6038223
9	6047933
10	6069124
11	6091172
16	14415757
17	14416490
18	14435585
19	14439155
20	14440963
21	14460496
22	6047870
23	6050905
24	6055344
25	6060693

Renewal Contracts

Gas

Sample Number	Contract Number
1	1599364
3	1609668
4	1617546
5	1627218
7	1668759
8	1668796
9	1694140
10	1694592
11	1704736
12	1707994
14	6052760
16	14027536
17	1617703
19	1714741
20	25002511
21	6055503
23	7455771
25	7525380

Renewal Forms

Electricity

Sample Number	Contract Number
1	3004284
2	4023238
3	4041344
4	4503842
5	4515584
6	24002624
7	6021936
8	6038223
9	6047933
10	6069124
11	6091172
12	6123344
13	6126935
14	6134800
15	6152032
16	14415757
17	14416490
18	14435585
19	14439155
20	14440963
21	14460496
22	6047870
23	6050905
24	6055344
25	6060693

Renewal Forms

Gas

Sample Number	Contract Number
1	1599364
2	1607022
3	1609668
4	1617546
5	1627218
6	1668427
7	1668759
8	1668796
9	1694140
10	1694592
11	1704736
12	1707994
13	1714116
14	6052760
15	6064233
16	14027536
17	1617703
18	1635168
19	1714741
20	25002511
21	6055503
22	7219437
23	7455771
24	7458773
25	7525380

Disclosure Statements

Electricity

Sample Number

Contract Number

5

8853479

Gas

Sample Number

Contract Number

25

8860165

Price Comparisons

Gas

Sample Number

Contract Number

7

8856313

15

6064233

Renewal Calls

Electricity

Sample Number

Contract Number

12

6123344

Gas

Sample Number

Contract Number

13

1714116