



EB-2013-0392

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 LP, Licence Number ER-2010-0153

**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 LP (“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 \$60,000.00 for breaches of enforceable provisions.

ALLEGATIONS OF NON COMPLIANCE

It is alleged that Just Energy has contravened section 10 of the *Energy Consumer Protection Act, 2010* (the “ECPA”), section 5 of Ontario Regulation 389/10 made under the ECPA (the “ECPA Regulations”), and sections 1.1(a), (h), and 2.1 of the Electricity Retailer Code of Conduct (the “Code of Conduct”).

PARTICULARS

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

Background facts

1. A Just Energy salesperson attended at an Ottawa consumer's residence on June 3, 2013. The salesperson introduced himself as being from the "hydro" company. He stated that he was there to make sure that all small volume consumers were switched to a single rate, which he called the "group distribution rate". He explained that consumers were being billed time of use rates which represented three pricing periods. He was attending residences to ensure that consumers were being switched to the single rate.
2. The salesperson had a binder with him that had a transparent plastic cover. Under the cover, there was what appeared to be a Hydro Ottawa bill. The bill appeared to have been modified: instead of three price periods for the time of use pricing, the consumer saw a reference to "Group distribution".
3. The salesperson asked to see the consumer's bill but the consumer did not have it available. At this point, the consumer, understanding that Hydro Ottawa does not send its employees door to door, asked for the business card of the salesperson. It was only at this point that the salesperson provided him with a Just Energy business card that included the salesperson's name and identification number. The salesperson told the consumer that once he checked his bill, if he changed his mind, he could call the number on the business card.
4. The salesperson did not discuss a contract with the consumer nor did he provide any pricing information at any point. He did not identify himself as working on behalf of Just Energy. It was only when the consumer received the business card that he realized on whose behalf the salesperson worked.

Unfair practice – failure to identify

5. The Just Energy salesperson failed to "immediately and truthfully give the name of the salesperson and the retailer to the customer, and state that the retailer is not the consumer's electricity distributor and is not associated with the Ontario Energy Board or the Government of Ontario."

6. This constituted a violation of the Code of Conduct, s. 1.1(a); the ECPA Regulations, s. 5; and the ECPA, s. 10.

Unfair practice – misleading statement about retailer

7. By stating that he was from the “hydro company”, the Just Energy salesperson made a representation that was likely to mislead the consumer. In particular, it was likely to cause the consumer to believe that the salesperson was working for the consumer’s electricity distributor and/or was associated with the Ontario government.
8. This constituted a violation of the Code of Conduct, s. 1.1(h); the ECPA Regulations, s. 5; and the ECPA, s. 10.

Unfair practice – misleading statement about purpose

9. By stating that he was there to make sure that all small volume customers were switched to a single rate, which he called the “group distribution rate”, the Just Energy salesperson made a representation that was likely to mislead the consumer. In fact, the salesperson was there to attempt to cause the consumer to sign an electricity retail contract with Just Energy.
10. This constituted a violation of the Code of Conduct, s. 1.1(h); the ECPA Regulations, s. 5; and the ECPA, s. 10.

Unfair practice – failure to ensure business card provided

11. The Just Energy salesperson was retailing to a low volume consumer in person at a place other than the retailer’s place of business. The salesperson made representations to the consumer about the retailer’s products, services or business and requested information about the customer, namely, asking the consumer to locate any utility bills, before providing the low volume consumer with a business card that met the requirements set out in the Code of Conduct, s. 2.2.
12. Just Energy had failed to ensure that its salespeople provided compliant business cards at the required time.
13. This constituted a violation of the Code of Conduct, s. 2.1; the ECPA Regulations, s. 5; and the ECPA, s. 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, November 14, 2013

ONTARIO ENERGY BOARD

Original Signed By

Rosemarie T. Leclair
Chair and CEO