



EB-2011-0315

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
Planet Energy (Ontario) Corp., Licence Numbers ER-2006-
0341 and GM-2008-0303

**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 Planet Energy (Ontario) Corp. (“Planet 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 \$35,000 for breaches of enforceable provisions.

Ernst and Young LLP (E&Y) was retained by the Board to conduct compliance inspections of Planet 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 Planet 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 Planet 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. The 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.

Business Cards

3. The standard form Business Card issued to all salespersons who meet in person with low-volume consumers fails to state Planet Energy’s website address; contrary to section 5 of Ontario Regulation 90/99 and section 2.2(e) of the Codes.

4. As the business cards are non-compliant with the legal and regulatory requirements, it is likely that the use of such business cards by Planet Energy salespersons will likely result in a breach of section 5(6) (ii) of Ontario Regulation 389/10 and section 1.1 (b) and 2.1 of the Codes.

Written Confirmation of Cancellation

5. In 16 of 26 electricity cancellation transactions reviewed (sample numbers 2, 4, 5, 7-15, 18, 19 and 25) it was observed that Planet Energy issued the required written confirmation of the cancellation to the consumer in excess of 10 days following the cancellation call. This is contrary to the requirement to issue the written confirmation promptly following the cancellation call contrary to section 22(4)(b) of Ontario Regulation 389/10 and section 19 of the ECPA. A list of the specific contracts is attached at Appendix A.
6. In 16 of the 25 gas cancellation transactions reviewed (samples 2-7, 11-18, 23 and 25) Planet Energy issued the written confirmation of the cancellation to the consumer in excess of 10 days following the cancellation call. This is contrary to the requirement to issue the written confirmation promptly following the cancellation call contrary to section 22(4)(b) of Ontario Regulation 389/10 and section 19 of the ECPA. A list of the specific contracts is attached at Appendix A.

THEREFORE TAKE NOTICE that Planet 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 Planet Energy comply with any of the enforceable provisions listed in this Notice and that Planet 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. Planet Energy is entitled to be present at the hearing with or without counsel and to adduce evidence and make submissions. Should Planet Energy fail to attend, the hearing may be conducted in its absence and Planet Energy will not be entitled to any further notice in the proceeding.

In order to respond to this Notice and request a hearing, Planet 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
To Notice of Intention
EB-2011-0315

A list of the contracts

Appendix A
Planet Energy (Ontario) Corp.
EB-2011-0315

Written Confirmation of Cancellation

Electricity

Sample Number	Contract Number
2	3104388
4	3104593
5	3104642
7	3104964
8	3105056
9	3105599
10	3105769
11	3105751
12	3105864
13	3106006
14	3106164
15	3106314
18	3106366
19	3106627
25	3107765
Phase 1 Sample	3104615

Written Confirmation of Cancellation

Gas

Sample Number	Contract Number
2	3104784
3	3104919
4	3105034
5	3105083
6	3105056
7	3105156
11	3105739
12	3105755
13	3105831
14	3105961
15	3106101
16	3106131
17	3106164
18	3106189
23	3107130
25	3107765