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Commission de l'Énergie de l'Ontario
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BY E-MAIL AND WEB POSTING

September 21, 2009

To: All Licensed Gas Marketers
All Rate-regulated Natural Gas Distributors
All Other Interested Parties

Re: **Consultation on Proposed Changes to the Natural Gas Reporting and Record Keeping Requirements: Gas Marketer Licence Requirements**
Board File: EB-2009-0163

All licensed gas marketers are required to report or maintain records of the information described in the Board's Natural Gas Reporting and Record Keeping Requirements: Gas Marketer Licence Requirements ("RRR-Gas Marketer") under the terms of their licences.

The Ontario Energy Board (the "Board") has today released for comment proposed amendments to the RRR-Gas Marketer. A comparison version of the RRR-Gas Marketer that contains the proposed amendments is set out in Attachment A to this letter, and a clean version that integrates all of the proposed amendments is set out in Attachment B to this letter. Under separate cover, the Board is also releasing for comment proposed amendments to the Electricity Reporting and Record Keeping Requirements (EB-2009-0161) and the Natural Gas Reporting and Record Keeping Requirements: Rule for Gas Utilities (EB-2009-0162). Some of the proposed amendments to the RRR-Gas Marketer are of similar effect to those being proposed to these other two instruments.

Summary of Proposed Amendments

Section 1.5: The Board is taking this opportunity to update the confidentiality section to better align with the proposed comparable provision in the reporting and record keeping requirements applicable to electricity sector entities, for consistency.

Section 2.1.1: Reporting on customer numbers will be required to be broken down by the remaining term of the contract, which will provide a more meaningful measure for the reporting of customer numbers.

Section 2.1.2: Gas marketers will be required to report quarterly on certain market monitoring information. Currently, this information is provided on a voluntary basis. The reporting deadline for this information is the last day of the second month after the quarter end.

Coming Into Effect

The Board is proposing that the amendments to the RRR-Gas Marketer come into effect on January 1, 2010 and apply to any reporting required to be made on or after that date (section 1.7).

Cost Awards

Cost awards will be available under section 30 of the *Ontario Energy Board Act, 1998* to eligible persons in relation to the provision of comments on the proposed amendments set out in Attachments A and B. Costs awarded will be recovered from all rate-regulated natural gas distributors based on their respective distribution revenues.

Attachment C contains important information regarding cost awards for this consultation, including in relation to eligibility requests and objections. In order to facilitate a timely decision on cost eligibility, the deadlines for filing cost eligibility requests and objections will be strictly enforced.

Any interested party that wishes to request eligibility for an award of costs in relation to this consultation must submit that request in accordance with the instructions set out in Attachment C.

Invitation to Comment

All interested parties are invited to comment in writing on the proposed amendments to the RRR-Gas Marketer set out in Attachments A and B by **October 19, 2009**.

Three (3) paper copies of each filing must be provided, and should be sent to:

Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
Suite 2700
Toronto, Ontario
M4P 1E4

The Board requests that interested parties make every effort to provide electronic copies of their filings in searchable/unrestricted Adobe Acrobat (PDF) format, and to submit their filings through the Board's web portal at www.err.oeb.gov.on.ca. A user ID is required to submit documents through the Board's web portal. If you do not have a user ID, please visit the "e-filings services" webpage on the Board's website at www.oeb.gov.on.ca, and fill out a user ID password request. Additionally, interested parties are requested to follow the document naming conventions and document submission standards outlined in the document entitled "RESS Document Preparation – A Quick Guide" also found on the e-filing services webpage. If the Board's web portal is not available, electronic copies of filings may be filed by e-mail at boardsec@oeb.gov.on.ca.

Those that do not have internet access should provide a CD or diskette containing their filing in PDF format.

Filings to the Board must be received by the Board Secretary by **4:45 p.m.** on the required date. They must quote file number **EB-2009-0163** and include your name, address, telephone number and, where available, your e-mail, address and fax number.

This letter, including the proposed amendments to the RRR-Gas Marketer set out in Attachments A and B, and all written comments received by the Board in response to this letter, will be available for public inspection on the Board's website at www.oeb.gov.on.ca and at the office of the Board during normal business hours.

If you have any questions regarding the proposed amendments described in this letter, please contact Anshula Ohri at 416-440-7659 or by e-mail at Anshula.Ohri@oeb.gov.on.ca. The Board's toll free number is 1-888-632-6273.

Yours truly,

Original Signed By

Kirsten Walli
Board Secretary

Attaches: Attachment A: Comparison version of the RRR-Gas Marketer showing all proposed amendments relative to the original version dated December 22, 2004

 Attachment B: Clean version of the RRR-Gas Marketer integrating all of the proposed amendments into the original version dated December 22, 2004

 Attachment C: Cost Awards

Attachment A

Board File No. EB-2009-0163

Date: September 21, 2009

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NATURAL GAS REPORTING AND RECORD KEEPING REQUIREMENTS

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GAS MARKETER LICENCE REQUIREMEN

December 22, 2004

Version dated January 1, 2010

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GAS MARKETER LICENCE
REQUIREMENTS ¶

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 2.1 Reporting ¶
 2.2 Record Keeping ¶
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1 GENERAL AND ADMINISTRATIVE PROVISIONS

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1.1 *The purpose of these reporting and record keeping requirements*

These reporting and record keeping requirements set the minimum reporting and record keeping requirements, with which a natural gas marketer must comply, in accordance with section 4.1.1 of its licence. Other reporting and record keeping requirements specific to a natural gas marketer may also be contained in rules, individual licences or regulatory instruments specific to a marketer (for example, an order).

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1.2 *Interpretations*

Unless otherwise defined in these reporting and record keeping requirements, words and phrases that have not been defined shall have the meaning ascribed to them in the Ontario Energy Board Act, 1998 (the “Act”). Headings are for convenience only and shall not affect the interpretation of these licence requirements. Words importing the singular include the plural and vice versa. A reference to a document or a provision of a document includes an amendment or supplement to, or a replacement of, that document or that provision of that document.

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1.3 To whom these reporting and record keeping requirements apply

These reporting and record keeping requirements apply to all licensed natural gas marketers.

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1.4 Manner and format of reporting and record keeping

The reporting and record keeping requirements will be in the manner and format as prescribed by the Board.

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1.5 Confidentiality of information

The Board intends to treat information filed under the Natural Gas Reporting and Record Keeping Requirements ([Gas Marketer Licence Requirements](#)) in confidence.

The Board reserves the right to disclose aggregated information [as well as information in a form such that](#) the identity of any individual person cannot be determined. The Board cautions parties that information treated as confidential may still be disclosed in a proceeding before the Board. However, a party [to that proceeding](#) would be able to request the Board to hold the document in confidence in that proceeding. The Board further cautions parties that it is subject to the *Freedom of Information and Protection of Privacy Act*. ([Ontario](#)).

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1.6 Exemptions

The Board may grant an exemption to any provision of these licence requirements. An exemption may be made in whole or in part and may be subject to conditions or restrictions.

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1.7 Coming into Force

These requirements shall come into force on July 1, 2005.

[The amendments to sections 1.5 and 2.1.1 and the addition of section 2.1.2 come into force on January 1, 2010 and apply to any reporting required to be made on or after that date.](#)

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2 MARKETER

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2.1 Reporting

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2.1.1 A gas marketer shall provide in the form and manner required by the Board, quarterly, on the last day of the second month following the quarter end, information on the total number of customers at the end of the reporting quarter who are low volume consumers as defined in the Act, broken down by type of contract as follows:

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- a) Contracts with less than one year remaining in the term of the contract;
- b) Contracts with greater than one year but less than three years remaining in the term of the contract; and
- c) Contracts with between three and five years remaining in the term of the contract

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<#>(a) the total number of new customers successfully enrolled (accepted by the utility for flow) in the reporting quarter; and ¶
(b)

Marketers licensed to act as an agent only, are exempt from this requirement.

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2.2

2.1.2 A gas marketer shall provide in the form and manner required by the Board, quarterly, on the last day of the second month following the quarter end, a summary of the following market monitoring information for the quarter:

- a) Number of active salespersons;
- b) Number of new enrolments;
- c) Number of contract renewals;
- d) Marketing approach percentages based on sales revenue broken down by: direct mail, door to door, telesales, internet sales and other;
- e) Number of consumer complaints; and
- f) Retail offers available to customers during the quarter. Details include the contract length, and pricing details.

Marketers licensed to act as an agent only, are exempt from this requirement.

2.2 Record Keeping

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2.2.1 A gas marketer with customers who are low volume consumers as defined in the Act, shall maintain for a period of two years and provide in a form and manner and at such times as may be required by the Board, records of all written complaints by low volume consumers regarding services provided under the terms of the marketer's licence together with the responses to those complaints, containing the following information:

- a) The name and address of the existing or prospective consumer;
- b) A description of the nature of the complaint including a copy of the written complaint;
- c) A description of the remedial action taken; and
- d) A copy of any correspondence received and/or sent with respect to each specific complaint.

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2.2.2 A gas marketer with customers who are low volume consumers as defined in the Act, shall maintain on file and provide in a form and manner and at such times as may be required by the Board, records of sales personnel and customer information as referenced by the Code of Conduct for Gas Marketers and containing the following information:

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- a) A current list of salespersons who act for that gas marketer;
- b) A list of the gas marketers' customers;
- c) Permission from each customer, signed by the customer, to submit a request to a gas distributor to allow the gas marketer to supply gas to the customer;
- d) 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, for as long as the contract or any renewal of it is in effect;
- e) Where reaffirmation is required, the notice of reaffirmation of the contract by the customer, for as long as the contract or any renewal of it is in effect;
- f) The notice of acceptance of the renewal or extension from the customer, where such notice is required, for as long as the contract or any renewal of it is in effect; and
- g) Such other information as the Board may reasonably require.

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2.2.3 A gas marketer with customers who are low volume consumers as defined in the Act, shall maintain for a period of two years and

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NATURAL GAS REPORTING AND RECORD KEEPING REQUIREMENTS (RRR)
GAS MARKETER LICENCE REQUIREMENTS
Version dated January 1, 2010

provide in a form and manner and at such times as may be required by the Board, records of staff training material containing the following information:

- a) Training manuals and other print material;
- b) Training videos;
- c) Codes of conduct;
- d) Newsletters, bulletins, updates, circulars, notices, instruction sheets and other similar materials;
- e) Scripts used for door-to-door solicitation of existing or prospective customers; and
- f) Certification by each sales employee and sales agent that the training has been received and that the person is familiar with, and will abide by, the Code of Conduct for Gas Marketers.

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2.2.4 A gas marketer with customers who are low volume consumers as defined in the Act, shall maintain for a period of two years and provide in a form and manner and at such times as may be required by the Board, marketing information containing the following:

- a) Offers (defined as a proposal to enter into a contract, agency agreement, or any other agreement or combination thereof, make to an existing or prospective consumer), including hard copies of web pages containing offers;
- b) Promotional material including pamphlets, brochures, bill inserts, coupons, and flyers;
- c) Application/ registration forms;
- d) Form letters sent to existing and prospective consumers;
- e) Sample identity cards (including photograph), outerwear, business cards and contact information of sales representatives; and
- f) Reference material including utility bills, price comparisons with details of price offers and forecasts (of the retailer) and other energy suppliers quoted, shown (or carried so as to be seen) or provided to existing or prospective consumers (records shall be kept for each price change in the reference material).

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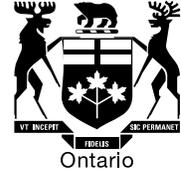
Attachment B

Board File No. EB-2009-0163

Date: September 21, 2009

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NATURAL GAS REPORTING AND RECORD KEEPING REQUIREMENTS

GAS MARKETER LICENCE REQUIREMENTS

December 22, 2004

Version dated January 1, 2010

NATURAL GAS REPORTING AND RECORD KEEPING REQUIREMENTS (RRR)
GAS MARKETER LICENCE REQUIREMENTS
Version dated January 1, 2010

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1 GENERAL AND ADMINISTRATIVE PROVISIONS

1.1 The purpose of these reporting and record keeping requirements

These reporting and record keeping requirements set the minimum reporting and record keeping requirements, with which a natural gas marketer must comply, in accordance with section 4.1.1 of its licence. Other reporting and record keeping requirements specific to a natural gas marketer may also be contained in rules, individual licences or regulatory instruments specific to a marketer (for example, an order).

1.2 Interpretations

Unless otherwise defined in these reporting and record keeping requirements, words and phrases that have not been defined shall have the meaning ascribed to them in the Ontario Energy Board Act, 1998 (the “Act”). Headings are for convenience only and shall not affect the interpretation of these licence requirements. Words importing the singular include the plural and vice versa. A reference to a document or a provision of a document includes an amendment or supplement to, or a replacement of, that document or that provision of that document.

1.3 To whom these reporting and record keeping requirements apply

These reporting and record keeping requirements apply to all licensed natural gas marketers.

1.4 Manner and format of reporting and record keeping

The reporting and record keeping requirements will be in the manner and format as prescribed by the Board.

1.5 Confidentiality of information

The Board intends to treat information filed under the Natural Gas Reporting and Record Keeping Requirements (Gas Marketer Licence Requirements) in confidence.

**NATURAL GAS REPORTING AND RECORD KEEPING REQUIREMENTS (RRR)
GAS MARKETER LICENCE REQUIREMENTS
Version dated January 1, 2010**

The Board reserves the right to disclose aggregated information as well as information in a form such that the identity of any individual person cannot be determined. The Board cautions parties that information treated as confidential may still be disclosed in a proceeding before the Board. However, a party to that proceeding would be able to request the Board to hold the document in confidence in that proceeding. The Board further cautions parties that it is subject to the *Freedom of Information and Protection of Privacy Act* (Ontario).

1.6 Exemptions

The Board may grant an exemption to any provision of these licence requirements. An exemption may be made in whole or in part and may be subject to conditions or restrictions.

1.7 Coming into Force

These requirements shall come into force on July 1, 2005.

The amendments to sections 1.5 and 2.1.1 and the addition of section 2.1.2 come into force on January 1, 2010 and apply to any reporting required to be made on or after that date.

2 MARKETER

2.1 Reporting

2.1.1 A gas marketer shall provide in the form and manner required by the Board, quarterly, on the last day of the second month following the quarter end, information on the total number of customers at the end of the reporting quarter who are low volume consumers as defined in the Act, broken down by type of contract as follows:

- a) Contracts with less than one year remaining in the term of the contract;
- b) Contracts with greater than one year but less than three years remaining in the term of the contract; and
- c) Contracts with between three and five years remaining in the term of the contract

Marketers licensed to act as an agent only, are exempt from this requirement.

**NATURAL GAS REPORTING AND RECORD KEEPING REQUIREMENTS (RRR)
GAS MARKETER LICENCE REQUIREMENTS
Version dated January 1, 2010**

2.1.2 A gas marketer shall provide in the form and manner required by the Board, quarterly, on the last day of the second month following the quarter end, a summary of the following market monitoring information for the quarter:

- a) Number of active salespersons;
- b) Number of new enrolments;
- c) Number of contract renewals;
- d) Marketing approach percentages based on sales revenue broken down by: direct mail, door to door, telesales, internet sales and other;
- e) Number of consumer complaints; and
- f) Retail offers available to customers during the quarter. Details include the contract length, and pricing details.

Marketers licensed to act as an agent only, are exempt from this requirement.

2.2 Record Keeping

2.2.1 A gas marketer with customers who are low volume consumers as defined in the *Act*, shall maintain for a period of two years and provide in a form and manner and at such times as may be required by the Board, records of all written complaints by low volume consumers regarding services provided under the terms of the marketer's licence together with the responses to those complaints, containing the following information:

- a) The name and address of the existing or prospective consumer;
- b) A description of the nature of the complaint including a copy of the written complaint;
- c) A description of the remedial action taken; and
- d) A copy of any correspondence received and/or sent with respect to each specific complaint.

2.2.2 A gas marketer with customers who are low volume consumers as defined in the *Act*, shall maintain on file and provide in a form and manner and at such times as may be required by the Board, records of sales personnel and customer information as referenced by the Code of Conduct for Gas Marketers and containing the following information:

- a) A current list of salespersons who act for that gas marketer;
- b) A list of the gas marketers' customers;

NATURAL GAS REPORTING AND RECORD KEEPING REQUIREMENTS (RRR)
GAS MARKETER LICENCE REQUIREMENTS
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- c) Permission from each customer, signed by the customer, to submit a request to a gas distributor to allow the gas marketer to supply gas to the customer;
- d) 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, for as long as the contract or any renewal of it is in effect;
- e) Where reaffirmation is required, the notice of reaffirmation of the contract by the customer, for as long as the contract or any renewal of it is in effect;
- f) The notice of acceptance of the renewal or extension from the customer, where such notice is required, for as long as the contract or any renewal of it is in effect; and
- g) Such other information as the Board may reasonably require.

2.2.3 A gas marketer with customers who are low volume consumers as defined in the Act, shall maintain for a period of two years and provide in a form and manner and at such times as may be required by the Board, records of staff training material containing the following information:

- a) Training manuals and other print material;
- b) Training videos;
- c) Codes of conduct;
- d) Newsletters, bulletins, updates, circulars, notices, instruction sheets and other similar materials;
- e) Scripts used for door-to-door solicitation of existing or prospective customers; and
- f) Certification by each sales employee and sales agent that the training has been received and that the person is familiar with, and will abide by, the Code of Conduct for Gas Marketers.

2.2.4 A gas marketer with customers who are low volume consumers as defined in the Act, shall maintain for a period of two years and provide in a form and manner and at such times as may be required by the Board, marketing information containing the following:

- a) Offers (defined as a proposal to enter into a contract, agency agreement, or any other agreement or combination thereof, made to an existing or prospective consumer), including hard copies of web pages containing offers;
- b) Promotional material including pamphlets, brochures, bill inserts, coupons, and flyers;
- c) Application/ registration forms;
- d) Form letters sent to existing and prospective consumers;
- e) Sample identity cards (including photograph), outerwear, business cards and contact information of sales representatives; and

**NATURAL GAS REPORTING AND RECORD KEEPING REQUIREMENTS (RRR)
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- f) Reference material including utility bills, price comparisons with details of price offers and forecasts (of the retailer) and other energy suppliers quoted, shown (or carried so as to be seen) or provided to existing or prospective consumers (records shall be kept for each price change in the reference material).

Attachment C

Board File No. EB-2009-0163

Date: September 21, 2009

ATTACHMENT C

Cost Awards

Cost Award Eligibility

The Board will determine eligibility for costs in accordance with its *Practice Direction on Cost Awards*. Any person intending to request an award of costs must file with the Board a written submission to that effect by **September 30, 2009**, identifying the nature of the person's interest in this process and the grounds on which the person believes that it is eligible for an award of costs (addressing the Board's cost eligibility criteria as set out in section 3 of the Board's *Practice Direction on Cost Awards*). An explanation of any other funding to which the person has access must also be provided, as should the name and credentials of any lawyer, analyst or consultant that the person intends to retain, if known. All requests for cost eligibility will be posted on the Board's website.

Rate-regulated gas distributors will be provided with an opportunity to object to any of the requests for cost award eligibility. If a gas distributor has any objections to any of the requests for cost eligibility, such objections must be filed with the Board by **October 9, 2009**. Any objections will be posted on the Board's website. The Board will then make a final determination on the cost eligibility of the requesting participants.

Eligible Activities

Cost awards will be available in relation to the provision of comments on the proposed amendments set out in Attachment A, **to a maximum of ten hours**.

Cost Awards

When determining the amount of the cost awards, the Board will apply the principles set out in section 5 of its *Practice Direction on Cost Awards*. The maximum hourly rates set out in the Board's Cost Awards Tariff will also be applied. The Board expects that groups representing the same interests or class of persons will make every effort to communicate and co-ordinate their participation in this process.

The Board will use the process set out in section 12 of its *Practice Direction on Cost Awards* to implement the payment of the cost awards. Therefore, the Board will act as a clearing house for all payments of cost awards in this process. For more information on this process, please see the Board's *Practice Direction on Cost Awards* and the October 27, 2005 letter regarding the rationale for the Board acting as a clearing house for the cost award payments. These documents can be found on the Board's website at www.oeb.gov.on.ca on the "Rules, Guidelines and Forms" webpage.