

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
27th Floor
Toronto ON M4P 1E4
Telephone: 416-481-1967
Facsimile: 416-440-7656
Toll free: 1-888-632-6273

Commission de l'énergie de l'Ontario
C.P. 2319
2300, rue Yonge
27^e étage
Toronto ON M4P 1E4
Téléphone: 416-481-1967
Télécopieur: 416-440-7656
Numéro sans frais: 1-888-632-6273



BY E-MAIL AND WEB POSTING

August 4, 2010

**To: All Licensed Electricity Retailers
All Licensed Gas Marketers
All Licensed Electricity Distributors
All Natural Gas Distributors
All Other Interested Parties**

**Re: Implementation of Consumer Protection (Retailer/Marketer) Provisions of the *Energy Consumer Protection Act, 2010*
Overview of Board Consultation
Board File Number EB-2010-0245**

This letter sets out an overview of the consultation process that the Board intends to follow in the coming months to implement certain of the consumer protection provisions of the *Energy Consumer Protection Act, 2010* (the “ECPA”).

Background

The ECPA, which received Royal Assent on May 18, 2010 but has not yet been proclaimed into force, will establish a new framework for the regulation of the activities of licensed electricity retailers and gas marketers (“suppliers”). The relevant provisions are found largely in Part II of the ECPA, with additional provisions also appearing in Part V in the form of amendments to the *Ontario Energy Board Act, 1998* (the “OEB Act”).

Many of the consumer protection provisions of the ECPA contemplate that supporting regulations will be made. To that end, on July 2, 2010, the government posted for comment draft regulations under the ECPA and the OEB Act (the “Draft Regulations”).¹

The Draft Regulations address a number of issues, including: (i) what constitutes an “unfair practice”; (ii) the content of contracts; (iii) a requirement for a “disclosure

¹ The Draft Regulations have been posted to the Regulations Registry and are available at <http://www.ontariocanada.com/registry/view.do?postingId=3682&language=en>.

statement” to accompany certain contracts; (iv) the contract verification and renewal processes; (v) contract cancellation; (vi) training for persons acting on behalf of suppliers; and (vii) a requirement for suppliers to submit a self-certification to the Board as a condition of entering into or renewing contracts. The Draft Regulations also make it clear that Part II of the ECPA applies only to low-volume consumers.

A number of the provisions of the ECPA and the Draft Regulations draw on existing provisions of the *Consumer Protection Act, 2002*, of Part V.1 of the OEB Act and of Ontario Regulation 200/02 (Consumer Protection) made under the OEB Act. However, other provisions establish new obligations for suppliers and new rights for low-volume energy consumers.

Certain of the Board's existing regulatory instruments applicable to the activities of suppliers will need to be amended to bring them into alignment with the ECPA and the Draft Regulations. This is particularly the case in relation to the Electricity Retailer Code of Conduct and the Code of Conduct for Gas Marketers. The EBT Standards for both sectors may also be affected.

The Draft Regulations also contemplate that the Board will develop new rules relating to the following, among possible others: (i) the form and content of the “disclosure statement” that must accompany new contracts and contract renewal offers; (ii) the steps to be taken to verify new contracts; (iii) the form and content of telephone renewals; (iv) details of the training that must be completed by persons acting on behalf of suppliers; and (v) the form of self-certification that must be filed with the Board by a supplier as a condition of entering into, renewing, amending or extending a contract once the ECPA has come into force.

The period for commenting on the Draft Regulations expires on August 15, 2010. It is the Board's understanding that the supplier-related consumer protection provisions of the ECPA may come into force as early as January 1, 2011, and that regulations in final form may be available in advance of that date.

Overview of Consultation Process

The Board believes that it is in the best interests of consumers and of the retail sector that amendments to its regulatory instruments in furtherance of the new legislative regime be in place, if not all in force, as long as possible in advance of the coming into

effect of that regime. The Board therefore intends to initiate consultations on those amendments in advance of finalization of the Draft Regulations.

The consultation process described below is limited to the implementation of those provisions of the ECPA that relate to the activities of suppliers. It does not extend to the suite metering provisions of the ECPA, nor to the ECPA provisions that relate to the gas and electricity utilities.

The Board also expects to undertake a significant consumer outreach initiative designed to inform low-volume energy consumers of the new rights and obligations set out in the ECPA and in associated regulations and Board regulatory instruments. The Board is also developing a comprehensive plan for monitoring compliance by suppliers with their obligations under the new legal and regulatory requirements. Further details will be made available as these initiatives unfold.

1. Proposed Amendments to Rules and Codes

The Board expects to issue for comment proposed amendments to its gas Rules (including the Code of Conduct for Gas Marketers) and electricity Codes in the first half of August. These proposed amendments are expected to include all of the changes associated with the implementation of the ECPA.

At the same time, the existing electricity and gas EBT Standards working groups will be asked to consider what changes, if any, are required to the EBT standards for gas and electricity in order to implement the new framework.

2. Stakeholder Meeting

To facilitate the provision of written comments on the proposed amendments to the Board's gas Rules and electricity Codes, the Board will host a stakeholder meeting to allow interested parties to engage Board staff in a discussion regarding those proposed amendments. The stakeholder meeting will be held at the offices of the Ontario Energy Board on **August 20, 2010** commencing at **10:00 a.m.** and scheduled to end by 11:30 a.m. The meeting will also be webcast. Further details regarding the stakeholder meeting will be made available on the Board's website closer to the scheduled date.

Any stakeholder that wishes to participate in the stakeholder meeting is asked to register by contacting Karen Cormier at karen.cormier@oeb.gov.on.ca before **August 13, 2010**, and to specify whether they intend to participate in person or by webcast.

3. *Subsequent Steps*

Subsequent steps in the consultation process will depend on the number and materiality of changes that may be required to the proposed amendments to the Board's gas Rules and electricity Codes, whether as a result of stakeholder comment or of changes to the Draft Regulations as they are being finalized.

Any required changes to the licences of suppliers are expected to be issued in conjunction with the issuance of final changes to the gas Rules and electricity Codes.

Cost Awards

Cost awards will be available under section 30 of the OEB Act to eligible participants for their participation in this consultation. Costs awarded will be recovered from licensed electricity retailers (50%) and licensed gas marketers (50%), and apportioned amongst them in the manner to be determined by the Board at the relevant time.

Appendix A 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.

Filing Material with the Board

Two (2) 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.errr.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-2010-0245** and include your name, address, telephone number and, where available, your e-mail address and fax number.

All materials relating to this consultation 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.

Any questions relating to this consultation should be directed to Lou Mustillo at 416-544-5185 or by e-mail to lou.mustillo@oeb.gov.on.ca. The Board's toll free number is 1-888-632-6273.

Yours truly,

Original signed by

Kirsten Walli
Board Secretary

Attachment: Appendix A Cost Awards

Appendix A

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 **August 11, 2010**, identifying the nature of the person's interest in this process and the grounds on which the person believes that they are 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.

Licensed electricity retailers and licensed gas marketers will be provided with an opportunity to object to any of the requests for cost award eligibility. If a retailer or marketer has any objections to any of the requests for cost eligibility, such objections must be filed with the Board by **August 18, 2010**. 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 following:

1. The provision of written comments on proposed amendments to the Board's gas Rules and electricity Codes. The maximum number of hours will be determined by the Board at the time that it issues its Notice of Proposal.
2. Preparation for, attendance at and reporting on the stakeholder meeting, to a maximum of actual meeting time plus 50% of meeting time for preparation and reporting.

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 consultation process.