



# **ONTARIO ENERGY BOARD**

## **Electricity Retailer Code of Conduct**

**Restated  
Proposed August 12, 2010**

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## **PART A**

### **1 GENERAL PROVISIONS**

#### **1.1 The Purpose of this Code**

The purpose of this Electricity Retailer Code of Conduct (the "Code") is to set out the minimum standards that a licensed retailer must meet when retailing electricity to consumers.

#### **1.2 Definitions**

In this Code:

“account holder” has the meaning given to it in the ECPA;

“Act” means the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B;

“authorized agent of the account holder” has the meaning given to it in the ECPA Regulation;

“Board” means the Ontario Energy Board;

“consumer” means a person who uses, for the person’s own consumption, electricity that the person did not generate;

“consumer information” means information relating to a specific consumer obtained by a retailer, its salesperson or its verification representative, and includes information obtained without the consent of the consumer;

“contract” has the meaning given to it in section 2 of the ECPA;

“customer” means a consumer with whom a retailer has a contract for the supply of electricity;

“disclosure statement” has the meaning given to it in the ECPA Regulation;

“ECPA” means the *Energy Consumer Protection Act, 2010*, S.O. 2010, c. 8;

“ECPA Regulation” means Ontario Regulation XX/XX made under the ECPA;

“Effective ECPA Date” means the date on which Part II of the ECPA is proclaimed into force;

“low volume consumer” means a consumer who annually uses less than 150,000 kilowatt hours of electricity or such other amount as may be prescribed for the purposes of section 2 of the ECPA;

“regulation” means a regulation made under the Act or the ECPA;

“retailing” includes door-to-door selling, internet selling, direct mail selling, and any other means by which a retailer or a salesperson or verification representative of a retailer interacts directly with a consumer;

“salesperson” has the meaning given to it in section 2 of the ECPA, and for greater certainty includes any person that offers or negotiates the renewal or extension of a contract on behalf of a retailer but excludes a verification representative when acting solely in that capacity;

“text-based” has the meaning given to it in section 2 of the ECPA; and

“verification representative” means a person that conducts the verification of a contract on behalf of a retailer.

### **1.3 Application**

This Code applies to all retailers licensed under section 57(d) of the Act.

### **1.4 Interpretation**

Unless otherwise defined in this Code, words and phrases shall have the meanings ascribed to them in the Act, the ECPA or the regulations, as the case may be. Where a word or phrase is defined in this Code, the Act, or the ECPA, other parts of speech and grammatical forms of the word or phrase have a corresponding meaning. Headings are for convenience only and shall not affect the interpretation of this Code. Words importing the singular include the plural and vice versa. Words importing a gender include any gender. Words importing a person include: (i) an individual; (ii) a company, sole proprietorship, partnership, trust, joint venture, association, corporation or other private or public body corporate; and (iii) any government, government agency or body, regulatory agency or body or other body politic or collegiate. A reference to a person includes that person's successors and permitted assigns. A reference to a body, whether statutory or not, that ceases to exist or whose functions are transferred to another body is a reference to the body that replaces it or that substantially succeeds to its powers or functions. A reference to a document (including a statutory instrument) or a provision of a document includes any amendment or supplement to, or any replacement of, that document or that provision. The expression "including" means including without limitation.

### **1.5 Low volume consumer contracts only with account holder**

A retailer shall not enter into, verify, renew or extend a contract with any low volume consumer for the supply of electricity to premises other than:

- (a) the account holder for the premises; or
- (b) an authorized agent for the account holder for the premises,

and references in Parts A and B of this Code to “consumer” shall be interpreted accordingly.

## **1.6 Obligation to comply with the law**

1.6.1 A retailer shall comply with all applicable provisions of the Act, the ECPA and the regulations. Nothing in this Code affects the obligation of a retailer, its salespersons or its verification representatives to comply with all applicable provincial and federal law.

1.6.2 The requirements set out in this Code apply in addition to any other requirements imposed by law, whether dealing with the same subject-matter or not.

## **1.7 Obligation to ensure persons comply**

1.7.1 A retailer shall ensure that its salespersons and verification representatives adhere to the same standards required of the retailer as set out in this Code.

1.7.2 Any acts or omissions of a salesperson or a verification representative acting on behalf of a retailer shall be deemed to be the acts or omissions of the retailer.

## **1.8 Determinations by the Board**

1.8.1 Any matter under this Code requiring a determination of the Board may be determined by the Board without a hearing or through an oral, written or electronic hearing, at the Board’s discretion.

## **1.9 Breach of this Code**

A breach of this Code may occur in the course of retailing even if no contract is entered into, amended, renewed or extended.

## **1.10 Coming into Force**

1.10.1 This Code shall come into force on the Effective ECPA Date.

1.10.2 This Code replaces the Electricity Retailer Code of Conduct dated December 20, 2004 as of the Effective ECPA Date, and the Electricity Retailer Code of Conduct dated December 20, 2004 is revoked as of the Effective ECPA Date.

1.10.3 Except where expressly stated otherwise, any amendment to this Code shall come into force on the date that the Board publishes the amendment by placing it on the Board's website after it has been made by the Board.

## **PART B**

### **1 FAIR MARKETING PRACTICES**

1.1 A retailer or salesperson of a retailer, when retailing to a consumer, shall:

- (a) immediately and truthfully give the name of the salesperson and the retailer to the consumer, and state that the retailer is not the consumer's local electricity distributor and is not associated with the Ontario Energy Board or the Government of Ontario;
- (b) if retailing to a consumer in person at a place other than the retailer's place of business, provide the consumer with a business card that meets the requirements of this Code;
- (c) if retailing to a consumer in person at a place other than the retailer's place of business, display an identification badge that meets the requirements of this Code;
- (d) state the price to be paid under the contract for the supply of electricity, and state the term of the contract;
- (e) not exert undue pressure on a consumer;
- (f) allow a consumer sufficient opportunity to read all documents provided;
- (g) not make any offer or provide any promotional material to a consumer that is inconsistent with the contract being offered to or entered into with the consumer; and
- (h) not make any representation or statement or give any answer or take any measure that is false or is likely to mislead a consumer.

## **2 BUSINESS CARDS AND IDENTIFICATION BADGES**

### **Business cards**

2.1 A retailer shall ensure that every salesperson that is acting on its behalf and that is retailing to a consumer in person at a place other than the retailer's place of business provides the consumer with a business card that meets the requirements set out in section 2.2 before making any representation to the consumer about the retailer's products, services or business and before requesting any information about the consumer, including asking that the consumer locate any utility bills.

2.2 The business card referred to in section 2.1 shall be clear and legible and include the following information:

- (a) the licence number issued to the retailer under the Act;
- (b) the name and address of the retailer;
- (c) the name of the salesperson acting on behalf of the retailer;
- (d) the toll-free telephone number of the retailer; and
- (e) the website address of the retailer.

### **Identification badges**

2.3 A retailer shall ensure that every salesperson that is acting on its behalf and that is retailing to a consumer in person at a place other than the retailer's place of business at all times wears, on the front of the salesperson's outer clothing, an identification badge that meets the requirements set out in section 2.4.

2.4 The identification badge referred to in section 2.3 shall be clear and legible and:

- (a) clearly identify that the salesperson is acting on behalf of the retailer, is not a representative of the consumer's local electricity distributor and is not associated with the Ontario Energy Board or the Government of Ontario;
- (b) include a photograph of the salesperson's face that is not more than 2 years old at any time;
- (c) identify the retailer;
- (d) identify the salesperson acting on behalf of the retailer;
- (e) identify the title or position of the salesperson;
- (f) include an identification number for the salesperson that has been issued by the retailer for that purpose; and
- (g) include an expiry date that is not more than 2 years after the date on which the identification badge was issued to the salesperson.

2.5 The salesperson's photograph and all of the information required by section 2.4 to appear on an identification badge must be shown on the same side of the identification badge, and must at all times be facing the consumer.

### **3 CONTRACTS AND TRANSFER REQUESTS**

#### **Contracts with low volume consumers**

3.1 A contract between a retailer and a low volume consumer shall clearly state:

- (a) the time period for which the contract is in effect;
- (b) the type and frequency of bills the consumer will receive; and
- (c) any terms and conditions for renewal, extension or amendment.

3.2 A retailer shall not enter into any contract with a low volume consumer that has a term of more than five years.

**Transfer requests and supply (low volume consumers - where verification is required)**

- 3.3 A retailer shall not submit a request to an electricity distributor for a change of electricity supply for a low volume consumer to that retailer or supply electricity to a consumer under a contract to which verification applies unless:
- (a) the retailer has given a text-based copy of the contract to the consumer;
  - (b) the retailer has given the applicable Board-approved disclosure statement to the consumer;
  - (c) the retailer has obtained the acknowledgement of receipt of the consumer of the text-based contract; and
  - (d) the contract has been validly verified.

**Transfer requests and supply (low volume consumers - where verification is not required)**

- 3.4 A retailer shall not submit a request to an electricity distributor for a change of electricity supply for a low volume consumer to that retailer or supply electricity to a consumer under a contract to which verification does not apply unless:
- (a) the retailer has given a text-based copy of the contract to the consumer;
  - (b) the retailer has given the applicable Board-approved disclosure statement to the consumer;
  - (c) the retailer has obtained the acknowledgement of receipt of the consumer of the text-based contract; and
  - (d) the consumer has not given notice of cancellation of the contract under section 19(1) of the ECPA and the time for doing so has expired.

**Transfer requests and supply (other consumers)**

- 3.5 A retailer shall not submit a request to an electricity distributor for a change of electricity supply for a consumer who is not a low volume consumer to that retailer

or supply electricity to a consumer that is not a low volume consumer unless the retailer has the permission of the consumer in writing to do so.

3.6 If a retailer discovers that a transfer request that it has submitted to an electricity distributor for a consumer who is not a low volume consumer is supported by a contract that does not comply with the Act, the regulations made under the Act, the retailer's licence or this Code, or does not contain the signature of the consumer, the retailer shall contact the affected consumer, clearly explain the non-compliance, and offer that consumer a compliant contract; and

- (a) if the consumer accepts the compliant contract, provide a copy of the compliant contract to the consumer within 14 days of acceptance by that consumer; or
- (b) if the consumer does not accept the compliant contract, immediately reverse the transfer request.

#### **Transfer requests where contract with low volume consumer is cancelled**

3.7 Where a retailer receives notice of cancellation of a contract from a low volume consumer, the retailer shall submit a request to the applicable electricity distributor for a change of electricity supply for that consumer to the electricity distributor, within 10 days of receipt of the notice of cancellation.

#### **Transfer requests where low volume consumer enters into contract with another retailer**

3.8 A retailer that is notified of a pending transfer request by an electricity distributor under section 10.5.4 of the Retail Settlement Code that pertains to a contract with a low volume customer shall, within 2 business days of the date of receipt of that notification, notify the consumer to whom the transfer request relates of the pending transfer request and of the consequences to the consumer if processing of the transfer request is completed. The notification to the consumer shall, at a minimum, identify any cancellation fee or other financial amounts that may be

payable to the retailer if the processing of the transfer request is completed. The notification to the consumer may be:

- (a) text-based; or
- (b) by telephone, provided that the retailer makes a voice recording of the telephone call and the recording of the call has associated with it a verifiable date and time stamp.

Where a retailer makes a recording of a telephone call under this section, the retailer shall provide a copy of the recording to the consumer within 10 days after the consumer requests it.

- 3.9 Section 3.8 only applies where the low volume consumer's contract with the retailer will expire after the proposed transfer date.

## **4 DISCLOSURE STATEMENTS, VERIFICATION AND RENEWALS OR EXTENSIONS**

### **Disclosure statements for low volume consumers**

- 4.1 A retailer shall not offer a contract to a low volume consumer unless the contract is accompanied by a disclosure statement in the applicable form approved by the Board.
- 4.2 A retailer shall not renew or extend a contract with a low volume consumer unless the retailer has given the consumer a disclosure statement in the applicable form approved by the Board.
- 4.3 If a low volume consumer asks whether a Board-approved disclosure statement is available in a language other than English or requests one, the retailer shall

inform the consumer that the Board-approved disclosure statement is available from the Board in the languages listed on the disclosure statement.

- 4.4 If a retailer wishes to provide a low volume consumer with a Board-approved disclosure statement in a language other than English:
- (a) if the disclosure statement is available from the Board in that language, the retailer may only provide the consumer with the disclosure statement that is available from the Board in that language; or
  - (b) if the disclosure statement is not available from the Board in that language, the retailer may provide the consumer with a translation of the Board-approved disclosure statement provided that the translation is true, accurate and complete.
- 4.5 A retailer shall not alter or redact a Board-approved disclosure statement except where expressly contemplated by the disclosure statement and then only in respect of the information specifically called for by the disclosure statement. Where a retailer that prepares a translation of a Board-approved disclosure statement as permitted by section 4.4(b), the retailer shall not include any information in the translated disclosure statement other than the information set out in or specifically called for by the Board-approved disclosure statement.

**Verification of contracts with low volume consumers**

- 4.6 A retailer shall ensure that the verification of a contract with a low volume consumer complies with section 4.7.
- 4.7 The verification of a contract with a low volume consumer shall be effected within the period and in the manner prescribed by the ECPA Regulation, and shall comply with the following requirements:

- (a) the verification representative shall use the script approved for that purpose by the Board;
- (b) the verification representative shall not deviate from the Board-approved script except to provide a factual answer to a question from the consumer or to provide a factual clarification where the consumer has indicated that he or she does not understand a statement made by the verification representative;
- (c) except where expressly permitted by the terms of the Board-approved script, where the script calls for a “yes” or “no” answer from the consumer, the verification representative shall terminate the verification call if the consumer does not provide a clear affirmative response;
- (d) the verification representative shall not at any time during the verification call make any statements of a promotional nature about the products, services or business of the retailer;
- (e) the verification representative shall terminate the verification call where the Board-approved script so requires; and
- (f) the recording of the verification call has associated with it a verifiable date and time stamp.

4.8 Where a low volume consumer notifies a retailer that the consumer does not wish to verify a contract, whether as part of a verification call or by separate notice, the retailer shall not thereafter contact the consumer for the purposes of obtaining verification of that contract.

**Renewal or extension of contracts with low volume consumers**

4.9 A retailer shall ensure that the renewal or extension of a contract with a low volume consumer complies with section 4.10.

- 4.10 The renewal or extension of a contract with a low volume consumer shall be effected within the period and in the manner prescribed by the ECPA Regulation and shall, where effected by telephone, comply with the following requirements:
- (a) the salesperson shall ensure that the call includes all of the statements and questions set out in the script approved for that purpose by the Board;
  - (b) the salesperson shall not make any representation that is inconsistent with or contrary to any of the statements or questions set out in the Board-approved script;
  - (c) except where expressly permitted by the terms of the Board-approved script, where the script calls for a “yes” or “no” answer from the consumer, the salesperson shall terminate the renewal or extension call if the consumer does not provide a clear affirmative response;
  - (d) the salesperson shall terminate the renewal or extension call where the Board-approved script so requires; and
  - (e) the recording of the renewal or extension call has associated with it a verifiable date and time stamp.
- 4.11 Where, following receipt of the material referred to in section 13(3) of the ECPA Regulation, a low volume consumer notifies a retailer that the consumer does not wish to renew or extend a contract, whether as part of a renewal or extension call or by separate notice, the retailer shall not thereafter contact the consumer for the purposes of obtaining the renewal or extension of that contract.
- 4.12 If, within the last year of a contract but prior to receipt of the material referred to in section 13(3) of the ECPA Regulation, a customer that is a low volume consumer notifies a retailer that the customer does not wish to renew or extend the contract, the retailer shall not renew or extend the contract unless the retailer reminds the customer of the notice of non-renewal or non-extension as part of the contract renewal or extension process referred to in section 13 of the ECPA Regulation

and obtains positive acceptance of the renewed or extended contract from the customer.

## **5 TRAINING**

5.1 A retailer shall ensure that no salesperson or verification representative that acts on its behalf retails to a consumer or negotiates, enters into, verifies, renews or extends a contract with a consumer unless the salesperson or verification representative has successfully completed training as set out in this Code.

5.2 A retailer shall ensure that the training referred to in section 5.1 includes the following for a salesperson other than a person involved solely in the renewal or extension of contracts:

- (a) training in relation to all of the legal and regulatory requirements applicable to the sales process, contract verification, consumer cancellation rights and the renewal or extension process; and
- (b) adequate and accurate material covering the following areas:
  - (i) electricity market structure;
  - (ii) how to complete a contract application;
  - (iii) behaviour that constitutes an unfair practice;
  - (iv) use of business cards;
  - (v) use of identification badges;
  - (vi) disclosure statements;
  - (vii) verification;
  - (viii) consumer cancellation rights;
  - (ix) renewals and extensions;
  - (x) how electricity pricing works, including the pricing of electricity supplied by electricity distributors;

- (xi) persons with whom a retailer may enter into, verify, renew or extend a contract; and
- (xii) all relevant Board regulatory requirements not already covered above, including those set out in this Code.

Where a salesperson acts on behalf of a retailer only in respect of retailing to consumers that are not low volume consumers, the training for that salesperson need not include matters that are specific to retailing to low volume consumers.

5.3 A retailer shall ensure that the training referred to in section 5.1 includes the following for a verification representative:

- (a) training in relation to all of the legal and regulatory requirements applicable to the verification process, including the use of the Board-approved script referred to in section 4.7; and
- (b) adequate and accurate material covering the following areas:
  - (i) electricity market structure;
  - (ii) behaviour that constitutes an unfair practice;
  - (iii) disclosure statements;
  - (iv) verification;
  - (v) consumer cancellation rights;
  - (vi) how electricity pricing works, including the pricing of electricity supplied by electricity distributors;
  - (vii) persons with whom a retailer may enter into and verify a contract; and
  - (viii) all other relevant Board regulatory requirements not already covered above, including those set out in this Code.

5.4 A retailer shall ensure that the training referred to in section 5.1 includes the following for a salesperson involved solely in the renewal or extension of contracts:

- (a) training in relation to all of the legal and regulatory requirements applicable to the renewal or extension process, including the use of the Board-approved script referred to in section 4.10; and
- (b) adequate and accurate material covering the following areas:
  - (i) electricity market structure;
  - (ii) behaviour that constitutes an unfair practice;
  - (iii) use of business cards, unless renewals and extensions are conducted solely by telephone;
  - (iv) use of identification badges, unless renewals and extensions are conducted solely by telephone;
  - (v) disclosure statements;
  - (vi) consumer cancellation rights;
  - (vii) renewals and extensions;
  - (viii) how electricity pricing works, including the pricing of electricity supplied by electricity distributors;
  - (ix) persons with whom a retailer may renew or extend a contract; and
  - (x) all relevant Board regulatory requirements not already covered above, including those set out in this Code.

Where a salesperson acts on behalf of a retailer only in respect of the renewal or extension of contracts with consumers that are not low volume consumers, the training for that salesperson need not include matters that are specific to retailing to low volume consumers.

5.5 A retailer shall ensure that the training referred to in section 5.1 is conducted only by an employee of the retailer or by a person under contract, provided that such

person is not also under contract to the retailer for the purpose of providing salespersons or verification representatives or of otherwise carrying out retailing or verification activities. A retailer shall also ensure that training is conducted only by persons with detailed knowledge of all of the elements listed in section 5.2, 5.3 or 5.4, as applicable, of this Code.

5.6 For the purposes of section 5.1:

- (a) a retailer shall determine the successful completion of training by means of a training test that is designed to assess the state of the salesperson's or verification representative's knowledge of the elements listed in section 5.2, 5.3 or 5.4, as applicable;
- (b) the training test questions may be fixed or taken randomly from a test question repository;
- (c) in order to be considered to have successfully complete training, the salesperson or verification representative must achieve a minimum 90% pass mark on the training test;
- (d) if a salesperson or verification representative fails a training test, the salesperson or verification representative may be permitted to re-take the training test once, provided that before re-taking the training test the salesperson or verification representative must also re-take the full training described in section 5.2, 5.3 or 5.4, as applicable; and
- (e) the retailer shall ensure that the training test is not conducted in a manner that would permit the persons taking the training test to share questions and answers with one another while taking the training test.

5.7 In sections 5.1 to 5.6, a reference to a salesperson or a verification representative includes a reference to a prospective salesperson or a prospective verification representative.

- 5.8 A retailer shall ensure that each salesperson and verification representative that acts on its behalf re-takes the training referred to in section 5.2, 5.3 or 5.4, as applicable, and re-takes and passes a training test in accordance with section 5.6 once every 12 months as a condition of continuing to act on behalf of the retailer.
- 5.9 A retailer shall ensure that any salesperson or verification representative that has not acted in that capacity on behalf of the retailer for a continuous period of 60 days or more re-takes the training referred to in section 5.2, 5.3 or 5.4, as applicable, and re-takes and passes a training test in accordance with section 5.6 prior to resuming activities as a salesperson or verification representative on behalf of the retailer.
- 5.10 A retailer shall maintain, for each salesperson and verification representative that acts on its behalf, complete records of the following:
- (a) the training material used (updated for each time the person undergoes training);
  - (b) the name and title or position of the person(s) who conducted the training (updated for each time the person undergoes training);
  - (c) proof of identity of the person;
  - (d) the date(s) any training of the person was conducted;
  - (e) the date(s) any testing of the person was conducted;
  - (f) the training test questions, answers and score (for each time the person undergoes testing)
  - (g) a signed statement from the person that he or she will comply with all applicable legal and regulatory requirements in relation to the activities the person will conduct on behalf of the retailer; and
  - (h) a copy of all business cards and identification badges issued to the person.

The records referred to above shall be retained for a period of not less than two

years from the date on which the salesperson or verification representative ceases to act on behalf of the retailer, and shall be provided to the Board on request.

## **6 CERTIFICATION**

- 6.1 A retailer shall not enter into, renew, extend or amend a contract with a low volume consumer on and after the Effective ECPA Date unless the retailer has filed with the Board a certification of compliance in the form set out in Appendix A and received from the Board the written acknowledgement referred to in section 1 of Ontario Regulation XXX/XX.
- 6.2 Where a retailer indicates “N/A” on the certification of compliance referred to in section 6.1 in relation to a given statement, the retailer shall not conduct the activity to which that statement relates unless the retailer has filed with the Board a further certification of compliance in respect of that activity in the form set out in Appendix B and has received from the Board written acknowledgement of that certification.
- 6.3 A certification of compliance referred to in section 6.1 or section 6.2 shall be signed by the retailer’s Chief Executive Officer, Chief Operating Officer, President or person of equivalent position.
- 6.4 A retailer shall provide in the form and manner required by the Board, annually by April 30, a self-certification statement on compliance with the Act, the ECPA, the regulations and this Code in relation to retailing to low volume consumers.

## **7 CONSUMER COMPLAINTS AND COMPLIANCE MONITORING**

### **Consumer complaints**

- 7.1 A retailer shall provide to its low volume consumer customers and prospective customers in all written offers, contracts, contract amendment forms and contract renewal or extension forms, the retailer's toll-free telephone number and the telephone number of the Board's Consumer Relations Centre.
- 7.2 If any low volume consumer makes a complaint to a retailer regarding retailing or verification by or on behalf of the retailer, the conduct of the retailer's salespersons or verification representatives, the contract the consumer has with the retailer, or any other matter related to the retailer, the retailer shall expeditiously investigate the complaint and take all appropriate and necessary steps to resolve the complaint. If the complaint is not resolved to the satisfaction of the consumer, the retailer shall provide to the consumer the telephone number of the Board's Consumer Relations Centre.
- 7.3 In cases where a consumer complaint has been referred to the retailer from the Board and resolution of that complaint is reached, the retailer shall implement the resolution immediately and shall confirm this, in writing, with the Board.

### **Compliance monitoring**

- 7.4 A retailer shall maintain a compliance monitoring and quality assurance program that enables the retailer to monitor compliance with the Act, the ECPA, the regulations and all applicable Board regulatory requirements and to identify any need for remedial action.
- 7.5 The program referred to in section 7.4 shall:

- (a) include regular quality assurance assessments of the performance of all salespersons and verification representatives acting on behalf of the retailer in relation to compliance with the Act, the ECPA, the regulations and all applicable Board regulatory requirements;
- (b) make provision for appropriate support to salespersons and verification representatives acting on behalf of the retailer; and
- (c) facilitate the identification of any need for specific training and/or coaching that a salesperson or verification representative may require.

7.6 Where a retailer receives a bona fide complaint that alleges that a salesperson or verification representative has failed to comply with a material requirement of the Act, the ECPA, the regulations or an applicable Board regulatory requirement, the retailer shall ensure that the salesperson or verification representative successfully undergoes remedial training on the subject-matter of the complaint (i.e., re-training on the applicable legal or regulatory requirement that the person is alleged to have violated) as a condition of continuing to act on behalf of the retailer.

## **8 SERVICES TO BE MAINTAINED BY A RETAILER**

8.1 A retailer shall have a current mailing address in Ontario and a current telephone number which may be reached by the general public without charge, and shall provide them to every low volume customer.

## **9 CONFIDENTIALITY OF CONSUMER INFORMATION**

9.1 A retailer shall not disclose consumer information as defined in this Code to any person other than the consumer or the Board without the consent of the consumer in writing, except when the information has been sufficiently aggregated such that an individual consumer's information cannot be identified, or where consumer information is required to be disclosed:

- (a) for billing or market operation purposes;
- (b) for law enforcement purposes;
- (c) to comply with a statute or an order of a court or tribunal;
- (d) when past due accounts of the consumer have been passed to a debt collection agency; or
- (e) for the purpose of complying with the Market Rules.

9.2 A retailer shall inform consumers regarding the conditions described in section 9.1 under which consumer information may be released to a third party without the consumer's consent.

9.3 A retailer shall not use consumer information obtained for one purpose from a consumer for any other purpose without the consent of the consumer in writing.

## **10 TRANSFER AND ASSIGNMENT OF CONTRACTS**

10.1 A retailer shall not sell, transfer or assign the administration of a contract with a customer to another person who is not a licensed retailer.

10.2 A retailer must notify the Board of any sale, transfer or assignment of contracts within 10 days of the sale, transfer or assignment.

10.3 Within 60 days of any sale, transfer or assignment of a contract to another retailer, the new retailer must notify the affected customers of the new retailer's address for service and toll-free telephone number.

## **PART C**

### **1 TRANSITIONAL PROVISIONS**

#### **Application**

- 1.1 This Part only applies to a contract with a low volume consumer that was entered into before the Effective ECPA Date.
- 1.2 Except as otherwise provided in sections 1.4 and 1.5 of this Part, Parts A and B of this Code apply to a contract referred to in section 1.1.

#### **Definitions**

- 1.3 In this Part, “notice of reaffirmation” means the written notice to the retailer that indicates an intention of the consumer to reaffirm the contract, as set out in section 4 of Ontario Regulation 200/02.

#### **Transfer requests**

- 1.4 A retailer shall not:
- (a) submit a request to an electricity distributor for a change of electricity supply for a low volume consumer to that retailer unless the retailer has the permission of the consumer in writing to do so; or
  - (b) supply electricity to a low volume consumer unless the retailer has the permission of the consumer in writing to do so, and has received the notice of reaffirmation from the consumer, where reaffirmation is required.
- 1.5 If a retailer discovers that a transfer request that it has submitted to an electricity distributor for a consumer is supported by a contract that does not comply with the Act, the regulations made under the Act, the retailer’s licence or the Electricity Retailer Code of Conduct as it read immediately prior to the Effective ECPA Date,

or does not contain the signature of the consumer, the retailer shall contact the affected consumer, clearly explain the non-compliance, and offer that consumer a contract that complies with the Act, the ECPA, the regulations, the retailer's licence and Parts A and B of this Code. If the consumer does not enter into and validly verify the compliant contract, the retailer shall immediately reverse the transfer request.

## APPENDIX A

### Form of Certification of Compliance under Section 6.1 of the Code

#### Electricity Retailer Certification of Compliance Under Section 6.1 of the Electricity Retailer Code of Conduct

##### Part I: Definitions and Interpretation

###### 1.1 In this Certification:

“applicable legal and regulatory requirements” means all applicable requirements under the *Energy Consumer Protection Act, 2010*, the *Ontario Energy Board Act, 1998*, regulations made under those Acts, a licence issued under section 57(d) of the *Ontario Energy Board Act, 1998* and any code issued by the Board under section 70.1 of the *Ontario Energy Board Act, 1998* that are in force on the Effective ECPA Date;

“Effective ECPA Date” means the date on which Part II of the *Energy Consumer Protection Act, 2010* comes into force;

“low volume consumer” has the meaning given to it in the Board’s Electricity Retailer Code of Conduct;

“Retailer” means the licensed retailer identified in the opening paragraph of section II;

“salesperson” has the meaning given to it in the Board’s Electricity Retailer Code of Conduct;

“text-based” has the meaning given to it in the *Energy Consumer Protection Act, 2010*; and

“verification representative” has the meaning given to it in the Board’s Electricity Retailer Code of Conduct.

###### 1.2 Unless otherwise defined in this Certification, words and phrases shall have the meanings given to them in the *Ontario Energy Board Act, 1998*, the *Energy Consumer Protection Act, 2010* or the regulations made under those Acts.

###### 1.3 In this Certification, “N/A” in relation to a given statement means that the Retailer will not, as of the Effective ECPA Date and for a period of not less than 1 month thereafter, carry on the activity to which the statement relates.

1.4 All statements in this Certification pertain to retailing to low volume consumers.

**Part II: Certification**

I, <identify (i) the certifying officer; (ii) his/her position with the Retailer; and (iii) the name of the Retailer>, having made all necessary enquiries, certify on behalf of the Retailer that:

| <b>Confirmation of Retailing Activities</b>  |            |           |
|--|------------|-----------|
| <b>The channels that the Retailer intends to use for the purpose of retailing electricity as of the Effective ECPA Date are the following:</b> | <b>Yes</b> | <b>No</b> |
| (A) Door-to-Door   |            |           |
| (B) Exhibitions  |            |           |
| (C) Trade shows  |            |           |
| (D) Direct Mail  |            |           |
| (E) Retailer's place of business   |            |           |
| (F) Internet   |            |           |
| (G) Telephone Renewals   |            |           |
| (H) Other (please specify below)   |            |           |

| <b>Certification of Compliance</b>   |            |            |
|--|------------|------------|
|  | <b>Yes</b> | <b>N/A</b> |
| <b>1. Salespersons</b>   |            |            |
| (A) All salespersons acting on behalf of the Retailer have undergone training and testing in accordance with all applicable legal and regulatory requirements  |            |            |
| (B) Each salesperson acting on behalf of the Retailer has been provided with business cards that meet all applicable legal and regulatory requirements   |            |            |
| (C) Each salesperson acting on behalf of the Retailer has been provided with an identification badge that meets all applicable legal and regulatory requirements   |            |            |
| (D) The Retailer's practices for hiring or contracting for salespersons are such that those persons can be expected to conduct their activities in compliance with all applicable legal and regulatory requirements and with integrity and honesty.  |            |            |
| (E) Adequate processes and controls, designed to ensure that the conduct of salespersons is in accordance with all applicable legal and regulatory requirements, are in place  |            |            |
| <b>2. Sales using a text-based contract</b>  |            |            |
| (A) All contract offers, contracts and promotional material pertaining to the sale of electricity to consumers have been prepared or revised as required to comply with all applicable legal and regulatory requirements and only offers, contracts and promotional material that so comply will be used |            |            |
| (B) The required disclosure statement will be used in accordance with all applicable legal and regulatory requirements   |            |            |
| (C) Adequate processes and controls, designed to ensure that the text-based contracting process is conducted in accordance with all applicable legal and regulatory requirements, are in place   |            |            |
| <b>3. Sales using the Internet</b>   |            |            |
| (A) The Retailer's internet website and internet contracting process have been prepared or revised to comply with all applicable legal and regulatory requirements   |            |            |
| (B) All contract offers, contracts and promotional material pertaining to the sale of electricity to consumers have been prepared or revised as required to comply with all applicable legal and regulatory requirements and only offers, contracts and promotional material that so comply will be used |            |            |
| (C) The required disclosure statement will be used in accordance with all applicable legal and regulatory requirements   |            |            |
| (D) Adequate processes and controls, designed to ensure that the internet contracting process is conducted in accordance with all applicable legal and regulatory requirements, are in place   |            |            |

| <b>Certification of Compliance</b>   |            |            |
|--|------------|------------|
|  | <b>Yes</b> | <b>N/A</b> |
| <b>4. Verification</b>   |            |            |
| (A) No verification representative acting on behalf of the Retailer will be remunerated in a manner contrary to any applicable legal and regulatory requirements   |            |            |
| (B) All verification representatives acting on behalf of the Retailer have undergone training and testing in accordance with all applicable legal and regulatory requirements  |            |            |
| (C) All verification representatives acting on behalf of the Retailer have been instructed to do so using the verification call script approved by the Board   |            |            |
| (D) Adequate processes and controls, designed to ensure that each verification call made or received by the Retailer (including a call from a consumer for the purpose of giving notice not to verify) is recorded and that a copy of the call recording can be retrieved and provided to the consumer upon request in accordance with all applicable legal and regulatory requirements, are in place            |            |            |
| (E) Adequate processes and controls, designed to ensure that the verification of electricity contracts with consumers is conducted in accordance with all applicable legal and regulatory requirements, are in place   |            |            |
| <b>5. Contract Renewals and Extensions</b>   |            |            |
| (A) All contract renewal/extension offers, contract renewal/extension forms and promotional material pertaining to the renewal/extension of electricity contracts with consumers have been prepared or revised in accordance with all applicable legal and regulatory requirements and only contract renewal/extension offers, renewal/extension forms and promotional material that so comply will be used      |            |            |
| (B) The required disclosure statement will be used in accordance with all applicable legal and regulatory requirements   |            |            |
| (C) All salespersons conducting telephone renewals on behalf of the Retailer have undergone training and testing in accordance with all applicable legal and regulatory requirements   |            |            |
| (D) All salespersons conducting renewal calls on behalf of the Retailer have been instructed to do so using the renewal call script approved by the Board  |            |            |
| (E) Adequate processes and controls, designed to ensure that each renewal/extension call made or received by the Retailer (including a call from a consumer for the purpose of giving notice not to renew/extend) is recorded and that a copy of the call recording can be retrieved and provided to the consumer upon request in accordance with all applicable legal and regulatory requirements, are in place |            |            |
| (F) Adequate processes and controls, designed to ensure that the renewal/extension of electricity contracts with consumers is conducted  |            |            |

| <b>Certification of Compliance</b>   |            |            |
|--|------------|------------|
|  | <b>Yes</b> | <b>N/A</b> |
| in accordance with all applicable legal and regulatory requirements, are in place  |            |            |
| <b>6. Contract Amendments</b>  |            |            |
| (A) Adequate processes and controls, designed to ensure that the amendment of any electricity contract with a consumer is conducted in accordance with all applicable legal and regulatory requirements, are in place  |            |            |
| <b>7. Cancellations and Retractions</b>  |            |            |
| (A) Adequate processes and controls, designed to ensure that the cancellation of any contract with a consumer is processed in accordance with all applicable legal and regulatory requirements, including as to the payment of any refund to which the consumer may by law be entitled and to the switching of the consumer back to the consumer's utility, are in place |            |            |
| (B) Adequate processes and controls, designed to ensure that the retraction of the renewal/extension of any electricity contract by a consumer is processed in accordance with all applicable legal and regulatory requirements, including as to the switching of the consumer back to the consumer's utility, are in place  |            |            |
| (C) Adequate processes and controls, designed to ensure that each cancellation call and each retraction call received by the Retailer is recorded and that a copy of the call recording can be retrieved and provided to the consumer upon request in accordance with all applicable legal and regulatory requirements, are in place                                     |            |            |
| <b>8. Complaint Handling</b>   |            |            |
| (A) Adequate processes and controls are in place to ensure that consumer complaints alleging non-compliance with any applicable legal or regulatory requirement can be received and are reviewed by the Retailer in a timely manner  |            |            |
| (B) Adequate processes and controls are in place to ensure that remedial action is taken in a timely manner to address consumer complaints referred to in (A) above, with the consumer and/or with any person that is the subject of the complaint   |            |            |

Date: <insert date of filing>

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[Signature]  
 [Title]

**Notes:**

1. In accordance with section 6.3 of the Board's Electricity Retailer Code of Conduct, this Certification must be signed by the Retailer's Chief Executive Officer, Chief Operating Officer, President or other person of equivalent position.
2. It is an offence under section 126(1)(b) of the *Ontario Energy Board Act, 1998* to knowingly furnish false or misleading information in any application, statement or return made under that Act or in any circumstances where information is required or authorized to be provided under that Act.

## APPENDIX B

### Form of Certification of Compliance under Section 6.2 of the Code

#### Electricity Retailer Certification of Compliance Under Section 6.2 of the Electricity Retailer Code of Conduct

##### Part I: Definitions and Interpretation

##### 1.2 In this Certification:

“applicable legal and regulatory requirements” means all applicable requirements under the *Energy Consumer Protection Act, 2010*, the *Ontario Energy Board Act, 1998*, regulations made under those Acts, a licence issued under section 57(d) of the *Ontario Energy Board Act, 1998* and any code issued by the Board under section 70.1 of the *Ontario Energy Board Act, 1998* that are in force on the Effective Date;

“Effective Date” means the date of this Certification;

“low volume consumer” has the meaning given to it in the Board’s Electricity Retailer Code of Conduct;

“Retailer” means the licensed retailer identified in the opening paragraph of section II;

“salesperson” has the meaning given to it in the Board’s Electricity Retailer Code of Conduct;

“text-based” has the meaning given to it in the *Energy Consumer Protection Act, 2010*; and

“verification representative” has the meaning given to it in the Board’s Electricity Retailer Code of Conduct.

1.2 Unless otherwise defined in this Certification, words and phrases shall have the meanings given to them in the *Ontario Energy Board Act, 1998*, the *Energy Consumer Protection Act, 2010* or the regulations made under those Acts.

1.3 All statements in this Certification pertain to retailing to low volume consumers.

**Part II: Certification**

Whereas on <insert date> the Retailer filed with the Board a Certification of Compliance under section 6.1 of the Electricity Retailer Code of Conduct in which the Retailer indicated “no” or “N/A” in relation to one or more statements.

And whereas the Retailer now intends to conduct the activities to which those statements relate.

I, <identify (i) the certifying officer; (ii) his/her position with the Retailer; and (iii) the name of the Retailer>, having made all necessary enquiries, certify on behalf of the Retailer that:

*Note: Indicate “yes” for any statement for which “no” or “N/A” was indicated in the certification filed under section 6.1 of the Electricity Retailer Code of Conduct and in relation to which the Retailer now intends to conduct the relevant activities.*

| <b>Confirmation of Retailing Activities</b>   |            |           |
|---|------------|-----------|
| <b>The channels that the Retailer intends to use for the purpose of retailing electricity as of the Effective Date are the following:</b> | <b>Yes</b> | <b>No</b> |
| (A) Door-to-Door  |            |           |
| (B) Exhibitions   |            |           |
| (C) Trade shows   |            |           |
| (D) Direct Mail   |            |           |
| (E) Retailer’s place of business  |            |           |
| (F) Internet  |            |           |
| (G) Telephone Renewals  |            |           |
| (H) Other (please specify below)  |            |           |

| <b>Certification of Compliance</b>   |            |            |
|--|------------|------------|
|  | <b>Yes</b> | <b>N/A</b> |
| <b>9. Salespersons</b>   |            |            |
| (A) All salespersons acting on behalf of the Retailer have undergone training and testing in accordance with all applicable legal and regulatory requirements  |            |            |
| (B) Each salesperson acting on behalf of the Retailer has been provided with business cards that meet all applicable legal and regulatory requirements   |            |            |
| (C) Each salesperson acting on behalf of the Retailer has been provided with an identification badge that meets all applicable legal and regulatory requirements   |            |            |
| (D) The Retailer's practices for hiring or contracting for salespersons are such that those persons can be expected to conduct their activities in compliance with all applicable legal and regulatory requirements and with integrity and honesty.  |            |            |
| (E) Adequate processes and controls, designed to ensure that the conduct of salespersons is in accordance with all applicable legal and regulatory requirements, are in place  |            |            |
| <b>10. Sales using a text-based contract</b>   |            |            |
| (A) All contract offers, contracts and promotional material pertaining to the sale of electricity to consumers have been prepared or revised as required to comply with all applicable legal and regulatory requirements and only offers, contracts and promotional material that so comply will be used |            |            |
| (B) The required disclosure statement will be used in accordance with all applicable legal and regulatory requirements   |            |            |
| (C) Adequate processes and controls, designed to ensure that the text-based contracting process is conducted in accordance with all applicable legal and regulatory requirements, are in place   |            |            |
| <b>11. Sales using the Internet</b>  |            |            |
| (A) The Retailer's internet website and internet contracting process have been prepared or revised to comply with all applicable legal and regulatory requirements   |            |            |
| (B) All contract offers, contracts and promotional material pertaining to the sale of electricity to consumers have been prepared or revised as required to comply with all applicable legal and regulatory requirements and only offers, contracts and promotional material that so comply will be used |            |            |
| (C) The required disclosure statement will be used in accordance with all applicable legal and regulatory requirements   |            |            |
| (D) Adequate processes and controls, designed to ensure that the internet contracting process is conducted in accordance with all applicable legal and regulatory requirements, are in place   |            |            |

|  |  |  |
|--|--|--|
| <b>12. Verification</b>  |  |  |
| (A) No verification representative acting on behalf of the Retailer will be remunerated in a manner contrary to any applicable legal and regulatory requirements   |  |  |
| (B) All verification representatives acting on behalf of the Retailer have undergone training and testing in accordance with all applicable legal and regulatory requirements  |  |  |
| (C) All verification representatives acting on behalf of the Retailer have been instructed to do so using the verification call script approved by the Board   |  |  |
| (D) Adequate processes and controls, designed to ensure that each verification call made or received by the Retailer (including a call from a consumer for the purpose of giving notice not to verify) is recorded and that a copy of the call recording can be retrieved and provided to the consumer upon request in accordance with all applicable legal and regulatory requirements, are in place            |  |  |
| (E) Adequate processes and controls, designed to ensure that the verification of electricity contracts with consumers is conducted in accordance with all applicable legal and regulatory requirements, are in place   |  |  |
| <b>13. Contract Renewals and Extensions</b>  |  |  |
| (A) All contract renewal/extension offers, contract renewal/extension forms and promotional material pertaining to the renewal/extension of electricity contracts with consumers have been prepared or revised in accordance with all applicable legal and regulatory requirements and only contract renewal/extension offers, renewal/extension forms and promotional material that so comply will be used      |  |  |
| (B) The required disclosure statement will be used in accordance with all applicable legal and regulatory requirements   |  |  |
| (C) All salespersons conducting telephone renewals on behalf of the Retailer have undergone training and testing in accordance with all applicable legal and regulatory requirements   |  |  |
| (D) All salespersons conducting renewal calls on behalf of the Retailer have been instructed to do so using the renewal call script approved by the Board  |  |  |
| (E) Adequate processes and controls, designed to ensure that each renewal/extension call made or received by the Retailer (including a call from a consumer for the purpose of giving notice not to renew/extend) is recorded and that a copy of the call recording can be retrieved and provided to the consumer upon request in accordance with all applicable legal and regulatory requirements, are in place |  |  |
| (F) Adequate processes and controls, designed to ensure that the renewal/extension of electricity contracts with consumers is conducted in accordance with all applicable legal and regulatory requirements, are in place  |  |  |

|  |  |  |
|--|--|--|
| <b>14. Contract Amendments</b>   |  |  |
| (A) Adequate processes and controls, designed to ensure that the amendment of any electricity contract with a consumer is conducted in accordance with all applicable legal and regulatory requirements, are in place  |  |  |
| <b>15. Cancellations and Retractions</b>   |  |  |
| (A) Adequate processes and controls, designed to ensure that the cancellation of any contract with a consumer is processed in accordance with all applicable legal and regulatory requirements, including as to the payment of any refund to which the consumer may by law be entitled and to the switching of the consumer back to the consumer's utility, are in place |  |  |
| (B) Adequate processes and controls, designed to ensure that the retraction of the renewal/extension of any electricity contract by a consumer is processed in accordance with all applicable legal and regulatory requirements, including as to the switching of the consumer back to the consumer's utility, are in place  |  |  |
| (C) Adequate processes and controls, designed to ensure that each cancellation call and each retraction call received by the Retailer is recorded and that a copy of the call recording can be retrieved and provided to the consumer upon request in accordance with all applicable legal and regulatory requirements, are in place                                     |  |  |
| <b>16. Complaint Handling</b>  |  |  |
| (A) Adequate processes and controls are in place to ensure that consumer complaints alleging non-compliance with any applicable legal or regulatory requirement can be received and are reviewed by the Retailer in a timely manner  |  |  |
| (B) Adequate processes and controls are in place to ensure that remedial action is taken in a timely manner to address consumer complaints referred to in (A) above, with the consumer and/or with any person that is the subject of the complaint   |  |  |

Date: <insert date of filing>

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[Signature]  
 [Title]

**Notes:**

1. In accordance with section 6.3 of the Board's Electricity Retailer Code of Conduct, this Certification must be signed by the Retailer's Chief Executive Officer, Chief Operating Officer, President or other person of equivalent position.
2. It is an offence under section 126(1)(b) of the *Ontario Energy Board Act, 1998* to knowingly furnish false or misleading information in any application, statement or return made under that Act or in any circumstances where information is required or authorized to be provided under that Act.