



ONTARIO ENERGY BOARD

Code of Conduct for Gas Marketers

**Revised Restated
Proposed October 15, 2010**

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1 TRANSITIONAL PROVISIONS

PART A

1 GENERAL PROVISIONS

1.1 The Purpose of this Code

The purpose of this Code of Conduct for Gas Marketers (the "Code") is to set out the minimum standards that a licensed gas marketer must meet when marketing gas to consumers.

1.2 Definitions

In this Code:

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

“account holder’s agent” has the meaning given to it in the ECPA Regulation;

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

“Board” means the Ontario Energy Board;

“consumer” means a person who annually uses less than 50,000 cubic metres of gas or such other amount as may be prescribed for the purposes of section 2 of the ECPA;

“consumer information” means information relating to a specific consumer obtained by a gas marketer, 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;

"contract price" has the meaning given to it in section 2 of the ECPA Regulation;

"customer" means a consumer with whom a gas marketer has a contract for the supply of gas;

"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 389/10 made under the ECPA;

"Effective ECPA Date" means January 1, 2011;

"marketing" includes door-to-door selling, internet selling, direct mail selling, and any other means by which a gas marketer or a salesperson or verification representative of a gas marketer interacts directly with a consumer;

"regulation" means a regulation made under the Act or the ECPA;

"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 gas marketer 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 gas marketer.

1.3 Application

This Code applies to all gas marketers licensed under section 48 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 Contracts only with account holder

A gas marketer shall not enter into, verify, renew or extend a contract with any person for the supply of gas to premises other than:

- (a) the account holder for the premises; or
- (b) an account holder's agent 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 gas marketer shall comply with all applicable provisions of the Act, the ECPA and the regulations. Nothing in this Code affects the obligation of a gas marketer, 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 gas marketer shall ensure that its salespersons and verification representatives adhere to the same standards required of the gas marketer 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 gas marketer shall be deemed to be the acts or omissions of the gas marketer.

1.8 Determinations by the Board and Exemptions

- 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.
- 1.8.2 The Board may grant an exemption to any provision of this Code. An exemption may be made in whole or in part, and may be subject to conditions or restrictions.

1.9 Breach of this Code

A breach of this Code may occur in the course of marketing 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 Code of Conduct for Gas Marketers dated December 20, 2004 as of the Effective ECPA Date, and the Code of Conduct for Gas Marketers 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 gas marketer or salesperson of a gas marketer, when marketing to a consumer, shall:

- (a) immediately and truthfully give the name of the salesperson and the gas marketer to the consumer, and state that the gas marketer is not the consumer's gas distributor and is not associated with the Ontario Energy Board or the Government of Ontario;
- (b) if marketing to a consumer in person at a place other than the gas marketer's place of business, provide the consumer with a business card that meets the requirements of this Code;
- (c) if marketing to a consumer in person at a place other than the gas marketer'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 gas, 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 gas marketer shall ensure that every salesperson that is acting on its behalf and that is marketing to a consumer in person at a place other than the gas marketer'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 gas marketer'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 gas marketer under the Act;
 - (b) the name and address of the gas marketer;
 - (c) the name of the salesperson acting on behalf of the gas marketer;
 - (d) the toll-free telephone number of the gas marketer; and
 - (e) the website address of the gas marketer.

Identification badges

- 2.3 A gas marketer shall ensure that every salesperson that is acting on its behalf and that is marketing to a consumer in person at a place other than the gas marketer'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 gas marketer, is not a representative of the consumer's gas 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 gas marketer;
- (d) identify the name of the salesperson acting on behalf of the gas marketer;
- (e) identify the title or position of the salesperson;
- (f) include an identification number for the salesperson that has been issued by the gas marketer 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

3.1 A contract between a gas marketer and a 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 gas marketer shall not enter into any contract with a consumer that has a term of more than five years.

Transfer requests and supply (where verification is required)

3.3 A gas marketer shall not submit a request to a gas distributor for a change of gas supply for a consumer to that gas marketer or supply gas to a consumer under a contract to which verification applies unless:

- (a) the gas marketer has given a text-based copy of the contract to the consumer;
- (b) the gas marketer has given the applicable Board-approved disclosure statement to the consumer;
- (c) the gas marketer has given to the consumer the applicable price comparison that complies with this Code;
- (d) the consumer has acknowledged receipt of the text-based contract, the disclosure statement and the price comparison; and
- (e) the contract has been validly verified.

Transfer requests and supply (where verification is not required)

3.4 A gas marketer shall not submit a request to a gas distributor for a change of gas supply for a consumer to that gas marketer or supply gas to a consumer under a contract to which verification does not apply unless:

- (a) the gas marketer has given a text-based copy of the contract to the consumer;
- (b) the gas marketer has given the applicable Board-approved disclosure statement to the consumer;
- (c) the gas marketer has given to the consumer the applicable price comparison that complies with this Code
- (d) the consumer has acknowledged receipt of the text-based contract, the disclosure statement and the price comparison; and
- (e) 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 where contract is cancelled

3.5 Where a gas marketer receives notice of cancellation of a contract from a consumer, the gas marketer shall submit a request to the applicable gas distributor for a change of gas supply for that consumer to the gas distributor within 10 days of receipt of the notice of cancellation.

Transfer requests where consumer enters into contract with another gas marketer

3.6 A gas marketer that is notified of a pending transfer request by a gas distributor under section 4.3.6.5 of the Gas Distribution Access Rule shall, within 5 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 gas marketer 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 gas marketer makes a voice recording of the telephone call and the recording of the call has associated with it a verifiable date and time stamp.

Subject to section 28 of the ECPA, where a gas marketer makes a recording of a telephone call under this section, the gas marketer shall provide a copy of the recording to the consumer within 10 days after the consumer requests it.

3.7 Section 3.6 only applies where the consumer's contract with the gas marketer will expire after the proposed transfer date.

4 DISCLOSURE STATEMENTS, PRICE COMPARISONS, VERIFICATION AND RENEWALS OR EXTENSIONS

Disclosure statements

- 4.1 A gas marketer shall not offer a contract to a consumer unless the contract is accompanied by a disclosure statement in the applicable form approved by the Board.
- 4.2 A gas marketer shall not renew or extend a contract with a consumer unless the gas marketer has given the consumer a disclosure statement in the applicable form approved by the Board.
- 4.3 If a consumer asks whether a Board-approved disclosure statement is available in a language other than English or requests one, the gas marketer 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 gas marketer wishes to provide a 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 gas marketer 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 gas marketer 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 gas marketer 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 gas marketer that prepares a translation of a Board-approved disclosure statement as permitted by section 4.4(b), the gas marketer 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.

Price comparisons

- 4.6 A gas marketer shall ensure that a disclosure statement provided to a consumer is accompanied by a price comparison. For that purpose, the gas marketer shall:
- (a) use the applicable price comparison template approved by the Board, in the form and with the content that is made available by the Board at the relevant time and without alteration or redaction other than to include details of the gas marketer's contract price offer and such other information as is required by the instructions contained in the template; and
 - (b) complete the Board-approved price comparison template by including details of the gas marketer's contract price offer and such other information as is required by the instructions contained in the template, and shall do so in accordance with the instructions contained in the template.
- 4.7 A gas marketer shall ensure that the information regarding the contract price being offered to a consumer that is included by the gas marketer in the price comparison is an accurate reflection of the contract price over the term of the contract and is not presented in a manner that is misleading in any way.
- 4.8 A gas marketer shall not include in the price comparison any statements of a promotional nature about the products, services or business of the gas marketer.
- 4.9 If a gas marketer wishes to provide a consumer with a price comparison in a language other than English, the gas marketer may provide the consumer with a

translation of the price comparison provided that the translation includes a true, accurate and complete translation of the content that is made available by the Board referred to in section 4.6(a), and the translated price comparison otherwise complies with sections 4.6 to 4.8.

Contract verification

4.10 A gas marketer shall ensure that the verification of a contract with a consumer complies with section 4.11.

4.11 The verification of a contract with a 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 applicable script approved for that purpose by the Board;
- (b) the verification representative shall not deviate from the applicable Board-approved script except to comply with paragraph (e), 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 applicable 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 gas marketer;
- (e) the verification representative shall terminate the verification call where the ECPA Regulation or the applicable Board-approved script so requires, and shall do so in accordance with the requirements of the ECPA Regulation or the applicable Board-approved script, as applicable; and

- (f) the recording of the verification call has associated with it a verifiable date and time stamp.

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

Contract renewal or extension

4.13 A gas marketer shall ensure that the renewal or extension of a contract with a consumer complies with section 4.14.

4.14 The renewal or extension of a contract with a 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 applicable 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 applicable Board-approved script;
- (c) except where expressly permitted by the terms of the applicable 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 applicable Board-approved script so requires, and shall do so in accordance with the requirements of the applicable Board-approved script; and

- (e) the recording of the renewal or extension call has associated with it a verifiable date and time stamp.

- 4.15 Where, following receipt of the material referred to in section 15 of the ECPA Regulation, a consumer notifies a gas marketer 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 gas marketer shall not thereafter contact the consumer for the purposes of obtaining the renewal or extension of that contract.
- 4.16 If, within the last year of a contract but prior to receipt of the material referred to in section 15 of the ECPA Regulation, a customer notifies a gas marketer that the customer does not wish to renew or extend the contract, the gas marketer shall not renew or extend the contract unless the gas marketer 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 15 of the ECPA Regulation and obtains positive acceptance of the renewed or extended contract from the customer.

5 TRAINING

- 5.1 A gas marketer shall ensure that no salesperson or verification representative that acts on its behalf markets 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 gas marketer 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) gas 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) price comparisons;
 - (viii) verification;
 - (ix) consumer cancellation rights;
 - (x) renewals and extensions;
 - (xi) how gas pricing works, including the pricing of gas supplied by gas distributors;
 - (xii) persons with whom a gas marketer may enter into, verify, renew or extend a contract; and
 - (xiii) all relevant Board regulatory requirements not already covered above, including those set out in this Code.

5.3 A gas marketer 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 4.11; and
- (b) adequate and accurate material covering the following areas:
 - (i) gas market structure;

- (ii) behaviour that constitutes an unfair practice;
- (iii) disclosure statements;
- (iv) price comparisons;
- (v) verification;
- (vi) consumer cancellation rights;
- (vii) how gas pricing works, including the pricing of gas supplied by gas distributors;
- (viii) persons with whom a gas marketer may enter into and verify a contract; and
- (ix) all other relevant Board regulatory requirements not already covered above, including those set out in this Code.

5.4 A gas marketer 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 4.14; and
- (b) adequate and accurate material covering the following areas:
 - (i) gas 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) price comparisons;
 - (vii) consumer cancellation rights;
 - (viii) renewals and extensions;

- (ix) how gas pricing works, including the pricing of gas supplied by gas distributors;
- (x) persons with whom a gas marketer may renew or extend a contract; and
- (xi) all relevant Board regulatory requirements not already covered above, including those set out in this Code.

5.5 A gas marketer shall ensure that the training referred to in section 5.1 is conducted only by an employee of the gas marketer or by a person under contract, provided that such person is not also under contract to the gas marketer for the purpose of providing salespersons or verification representatives or of otherwise carrying out marketing or verification activities. A gas marketer 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 gas marketer 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 80% 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 gas marketer 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 gas marketer 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 gas marketer.

- 5.9 A gas marketer shall ensure that any salesperson or verification representative that has not acted in that capacity on behalf of the gas marketer 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 gas marketer.

- 5.10 A gas marketer 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 gas marketer; 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 gas marketer, and shall be provided to the Board on request.

6 CERTIFICATION

- 6.1 A gas marketer shall not enter into, renew, extend or amend a contract with a consumer on and after the Effective ECPA Date unless the gas marketer has filed with the Board a certificate of compliance in the form set out in Appendix A and received from the Board the written acknowledgement referred to in section 3 of Ontario Regulation 90/99.
- 6.2 Where a gas marketer indicates “N/A” on the certificate of compliance referred to in section 6.1 in relation to a given statement, the gas marketer shall not conduct the activity to which that statement relates unless the gas marketer has filed with the Board a further certificate 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 certificate of compliance referred to in section 6.1 or section 6.2 shall be signed by the gas marketer’s Chief Executive Officer, Chief Operating Officer, President or person of equivalent position.

- 6.4 Commencing in 2012, a gas marketer 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.

7 CONSUMER COMPLAINTS AND COMPLIANCE MONITORING

Consumer complaints

- 7.1 A gas marketer shall provide to its customers and prospective customers in all written offers, contracts, contract amendment forms and contract renewal or extension forms, the gas marketer's toll-free telephone number and the telephone number of the Board's Consumer Relations Centre.
- 7.2 If any consumer makes a complaint to a gas marketer regarding marketing or verification by or on behalf of the gas marketer, the conduct of the gas marketer's salespersons or verification representatives, the contract the consumer has with the gas marketer, or any other matter related to the gas marketer, the gas marketer 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 gas marketer 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 gas marketer from the Board and resolution of that complaint is reached, the gas marketer shall implement the resolution immediately and shall confirm this, in writing, with the Board.

Compliance monitoring

- 7.4 A gas marketer shall maintain a compliance monitoring and quality assurance program that enables the gas marketer 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 gas marketer 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 gas marketer; 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 gas marketer 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 gas marketer 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 gas marketer.

8 SERVICES TO BE MAINTAINED BY A GAS MARKETER

8.1 A gas marketer 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 customer.

9 CONFIDENTIALITY OF CONSUMER INFORMATION

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

10.2 A gas marketer 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 gas marketer, the new gas marketer must notify the affected customers of the new gas marketer's address for service and toll-free telephone number.

PART C

1 TRANSITIONAL PROVISIONS

Application

- 1.1 This Part only applies to a contract that was signed by the consumer on or after November 22, 2010 and 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 gas marketer that indicates an intention of the consumer to reaffirm the contract, as set out in section 30 of the ECPA Regulation.

Transfer requests

- 1.4 A gas marketer shall not:
 - (a) submit a request to a gas distributor for a change of gas supply for a consumer to that gas marketer unless the gas marketer has the permission of the consumer in writing to do so; or
 - (b) supply gas to a consumer unless the gas marketer 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 gas marketer discovers that a transfer request that it has submitted to a gas distributor for a consumer is supported by a contract that does not comply with the Act, the regulations made under the Act, the gas marketer’s licence or the Code of Conduct for Gas Marketers as it read immediately prior to the Effective

ECPA Date, or does not contain the signature of the consumer, the gas marketer 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 gas marketer's licence and Parts A and B of this Code. If the consumer does not enter into and validly verify the compliant contract, the gas marketer shall immediately reverse the transfer request.

APPENDIX A

Form of Certificate of Compliance under Section 6.1 of the Code

Gas Marketer Certificate of Compliance Under Section 6.1 of the Code of Conduct for Gas Marketers

Part I: Definitions and Interpretation

1.1 In this Certificate:

“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 48 of the *Ontario Energy Board Act, 1998* and any rule made by the Board under section 44 of the *Ontario Energy Board Act, 1998* that are in force on the Effective ECPA Date;

“Effective Certification Date” means the later of the Effective ECPA Date and the date on which this Certificate is signed by the Gas Marketer and filed with the Board;

“Effective ECPA Date” means January 1, 2011;

“Gas Marketer” means the licensed gas marketer identified in the opening paragraph of section II;

“salesperson” has the meaning given to it in the Board’s Code of Conduct for Gas Marketers;

“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 Code of Conduct for Gas Marketers.

1.2 Unless otherwise defined in this Certificate, 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 Certificate, "N/A" in relation to a given statement means that the Gas Marketer will not, as of the Effective Certification Date and for a period of not less than 1 month thereafter, carry on the activity to which the statement relates.

Part II: Certification

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

Confirmation of Marketing Activities		
The channels that the Gas Marketer intends to use for the purpose of marketing gas as of the Effective Certification Date are the following:	Yes	No
(A) Door-to-Door		
(B) Exhibitions		
(C) Trade shows		
(D) Direct Mail		
(E) Gas Marketer's place of business		
(F) Internet		
(G) Telephone Renewals		
(H) Other (please specify below)		

Certificate of Compliance		
	Yes	N/A
1. Salespersons		
(A) All salespersons acting on behalf of the Gas Marketer have undergone training and testing in accordance with all applicable legal and regulatory requirements		
(B) Each salesperson acting on behalf of the Gas Marketer has been provided with business cards that meet all applicable legal and regulatory requirements		
(C) Each salesperson acting on behalf of the Gas Marketer has been provided with an identification badge that meets all applicable legal and regulatory requirements		
(D) The Gas Marketer's practices for hiring or contracting for salespersons are such that on and after the Effective Certification Date, 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 on and after the Effective Certification Date is in accordance with all applicable legal and regulatory requirements, are in place		
2. Sales using a text-based contract		
(A) All contract offers, contracts and promotional material pertaining to the sale of gas 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 on and after the Effective Certification Date		
(B) The required disclosure statement and price comparison will be used on and after the Effective Certification Date in accordance with all applicable legal and regulatory requirements		
(C) Adequate processes and controls, designed to ensure that the text-based contracting process on and after the Effective Certification Date is conducted in accordance with all applicable legal and regulatory requirements, are in place		
3. Sales using the Internet		
(A) The Gas Marketer'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 gas to consumers have been prepared or revised as required to		

Certificate of Compliance		
	Yes	N/A
comply with all applicable legal and regulatory requirements and only offers, contracts and promotional material that so comply will be used on and after the Effective Certification Date		
(C) The required disclosure statement will be used on and after the Effective Certification Date in accordance with all applicable legal and regulatory requirements		
(D) Adequate processes and controls, designed to ensure that the internet contracting process on and after the Effective Certification Date is conducted in accordance with all applicable legal and regulatory requirements, are in place		
4. Verification		
(A) No verification representative acting on behalf of the Gas Marketer will be remunerated on and after the Effective Certification Date in a manner contrary to any applicable legal and regulatory requirements		
(B) All verification representatives acting on behalf of the Gas Marketer have undergone training and testing in accordance with all applicable legal and regulatory requirements		
(C) All verification representatives acting on behalf of the Gas Marketer 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 Gas Marketer on and after the Effective Certification Date (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 gas contracts with consumers on and after the Effective Certification Date is conducted in accordance with all applicable legal and regulatory requirements, are in place		
5. Contract Renewals and Extensions		
(A) All contract renewal/extension offers, contract renewal/extension forms and promotional material pertaining to the renewal/extension of gas 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 and price comparison will be used on and after the Effective Certification Date in accordance with all applicable legal and regulatory requirements		
(C) All salespersons conducting telephone renewals on behalf of the Gas Marketer have undergone training and testing in accordance with all		

Certificate of Compliance		
	Yes	N/A
applicable legal and regulatory requirements		
(D) All salespersons conducting renewal calls on behalf of the Gas Marketer 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 Gas Marketer on and after the Effective Certification Date (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 gas contracts with consumers on and after the Effective Certification Date is conducted in accordance with all applicable legal and regulatory requirements, are in place		
6. Contract Amendments		
(A) Adequate processes and controls, designed to ensure that the amendment of any gas contract with a consumer on and after the Effective Certification Date is conducted in accordance with all applicable legal and regulatory requirements, are in place		
7. Cancellations and Retractions		
(A) Adequate processes and controls, designed to ensure that the cancellation of any contract with a consumer on and after the Effective Certification Date 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 gas contract by a consumer on and after the Effective Certification Date 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 Gas Marketer on and after the Effective Certification Date 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		
8. Complaint Handling		
(A) Adequate processes and controls are in place to ensure that consumer complaints on and after the Effective Certification Date alleging non-		

Certificate of Compliance		
	Yes	N/A
compliance with any applicable legal or regulatory requirement can be received and are reviewed by the Gas Marketer 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>

[Signature]
 [Title]

Notes:

1. In accordance with section 6.3 of the Board's Code of Conduct for Gas Marketers, this Certificate must be signed by the Gas Marketer'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 Certificate of Compliance under Section 6.2 of the Code

Gas Marketer Certificate of Compliance Under Section 6.2 of the Code of Conduct for Gas Marketers

Part I: Definitions and Interpretation

1.2 In this Certificate:

“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 48 of the *Ontario Energy Board Act, 1998* and any rule made by the Board under section 44 of the *Ontario Energy Board Act, 1998* that are in force on the Effective Date;

“Effective Date” means the date this Certificate is signed by the Gas Marketer and filed with the Board;

“Gas Marketer” means the licensed gas marketer identified in the opening paragraph of section II;

“salesperson” has the meaning given to it in the Board’s Code of Conduct for Gas Marketers;

“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 Code of Conduct for Gas Marketers.

1.2 Unless otherwise defined in this Certificate, 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.

Part II: Certification

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

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

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

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

Confirmation of Marketing Activities		
The channels that the Gas Marketer intends to use for the purpose of marketing gas as of the Effective Date are the following:	Yes	No
(A) Door-to-Door		
(B) Exhibitions		
(C) Trade shows		
(D) Direct Mail		
(E) Gas Marketer's place of business		
(F) Internet		
(G) Telephone Renewals		
(H) Other (please specify below)		

Certificate of Compliance		
	Yes	N/A
9. Salespersons		
(A) All salespersons acting on behalf of the Gas Marketer have undergone training and testing in accordance with all applicable legal and regulatory requirements		
(B) Each salesperson acting on behalf of the Gas Marketer has been provided with business cards that meet all applicable legal and regulatory requirements		
(C) Each salesperson acting on behalf of the Gas Marketer has been provided with an identification badge that meets all applicable legal and regulatory requirements		
(D) The Gas Marketer'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		
10. Sales using a text-based contract		
(A) All contract offers, contracts and promotional material pertaining to the sale of gas 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 and price comparison 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		
11. Sales using the Internet		
(A) The Gas Marketer'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 gas 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 and price comparison 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		

Certificate of Compliance		
	Yes	N/A
12. Verification		
(A) No verification representative acting on behalf of the Gas Marketer will be remunerated in a manner contrary to any applicable legal and regulatory requirements		
(B) All verification representatives acting on behalf of the Gas Marketer have undergone training and testing in accordance with all applicable legal and regulatory requirements		
(C) All verification representatives acting on behalf of the Gas Marketer 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 Gas Marketer (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 gas contracts with consumers is conducted in accordance with all applicable legal and regulatory requirements, are in place		
13. Contract Renewals and Extensions		
(A) All contract renewal/extension offers, contract renewal/extension forms and promotional material pertaining to the renewal/extension of gas 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 and price comparison will be used in accordance with all applicable legal and regulatory requirements		
(C) All salespersons conducting telephone renewals on behalf of the Gas Marketer have undergone training and testing in accordance with all applicable legal and regulatory requirements		
(D) All salespersons conducting renewal calls on behalf of the Gas Marketer 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 Gas Marketer (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 gas contracts with consumers is conducted in accordance with all applicable legal and regulatory requirements, are in		

Certificate of Compliance		
	Yes	N/A
place		
14. Contract Amendments		
(A) Adequate processes and controls, designed to ensure that the amendment of any gas contract with a consumer is conducted in accordance with all applicable legal and regulatory requirements, are in place		
15. Cancellations and Retractions		
(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 gas 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 Gas Marketer 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		
16. Complaint Handling		
(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 Gas Marketer 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>

[Signature]
 [Title]

Notes:

1. In accordance with section 6.3 of the Board's Code of Conduct for Gas Marketers, this Certificate must be signed by the Gas Marketer'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.