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**BY EMAIL AND WEB POSTING**

**NOTICE OF REVISED PROPOSAL TO REVOKE AND RE-ISSUE A CODE**

**REVISED PROPOSED REVOCATION AND RE-ISSUANCE OF THE  
ELECTRICITY RETAILER CODE OF CONDUCT**

**AND**

**NOTICE OF REVISED PROPOSAL TO REVOKE AND RE-ISSUE A RULE  
AND TO AMEND A RULE**

**REVISED PROPOSED REVOCATION AND RE-ISSUANCE OF THE GAS  
MARKETER CODE OF CONDUCT AND PROPOSED AMENDMENTS TO THE  
GAS DISTRIBUTION ACCESS RULE**

**BOARD FILE NO.: EB-2010-0245**

**To: All Licensed Electricity Retailers  
All Licensed Gas Marketers  
All Licensed Electricity Distributors  
All Natural Gas Utilities  
All Participants in Consultation Process EB-2010-0245**

**Date: October 15, 2010**

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The Ontario Energy Board (the "Board") is giving notice under section 45 and section 70.2 of the *Ontario Energy Board Act, 1998* (the "OEB Act"), as applicable, of its revised proposal to:

- i. revoke and re-issue the Electricity Retailer Code of Conduct (the "Retailer Code");

- ii. revoke and re-issue the Code of Conduct for Gas Marketers (the “Marketer Code”); and
- iii. amend the Gas Distribution Access Rule (the “GDAR”).

The purpose of the revised proposed revisions to these regulatory instruments is to implement the provisions of the *Energy Consumer Protection Act, 2010* (the “ECPA”) in relation to the activities of licensed electricity retailers and gas marketers (“suppliers”).

### **A. Background**

On August 12, 2010, the Board issued a Notice of Proposal to Revoke and Re-issue a Code, to Revoke and Re-issue a Rule and to Amend a Rule (the “August Notice”) in which it proposed to revoke and re-issue the Retailer Code and the Marketer Code and to amend the GDAR to implement the provisions of the ECPA in relation to the activities of suppliers (the “August Proposed Amendments”). The August Proposed Amendments included new regulatory requirements relating to the following:

- (i) the form and content of the disclosure statement that must accompany new contracts and contract renewal offers;
- (ii) the steps to be taken to verify new contracts;
- (iii) the form and content of telephone renewals;
- (iv) details of the training that must be completed by persons acting on behalf of suppliers; and
- (v) the form of certification that must be filed with the Board by a supplier as a condition of entering into, renewing, amending or extending a contract once the ECPA has come into force.

To facilitate the provision of written comments on the August Proposed Amendments, the Board hosted a stakeholder meeting on August 20, 2010 to allow interested parties to engage Board staff in a discussion regarding the August Proposed Amendments. A number of stakeholders participated in that stakeholder meeting, either in person or by webcast, and the webcast is available on the Board’s website at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca) on the “Implementation of Consumer Protection (Retailer/Marketer) Provisions of the ECPA” webpage.

The Board received 15 written comments on the August Proposed Amendments from a variety of stakeholders including suppliers, distributors, and representatives of low volume consumers, vulnerable energy consumers and large volume consumers. These are also available for viewing on the Board's website at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca) on the "Implementation of Consumer Protection (Retailer/Marketer) Provisions of the ECPA" webpage.

The ECPA will establish a new framework for the regulation of the activities of suppliers effective January 1, 2011, the date on which the relevant provisions of the ECPA have been proclaimed to come into force (the "Effective ECPA Date"). Those provisions are found largely in Part II of the ECPA, with additional provisions also appearing in Part V in the form of amendments to the OEB Act.

The August Proposed Amendments were prepared on the basis of the ECPA itself and on two draft regulations that were posted for comment by the government on July 2, 2010, one under the ECPA and the other under the OEB Act (the "Draft Regulations"). In the August Notice, the Board reiterated its belief that it is in the best interests of consumers and the retail sector that amendments to the Board's regulatory instruments in furtherance of the new legislative regime be in place, although not yet in force, as long as possible in advance of the coming into effect of that regime. The Board remains of that view.

On October 13, 2010, revised and final versions of the Draft Regulations were filed; namely, Ontario Regulation 389/10 under the ECPA (the "Final ECPA Regulation") and Ontario Regulation 390/10 (amending Ontario Regulation 90/99) under the OEB Act (the "Final OEBA Regulation") (together, the "Final Regulations"). The Final Regulations address a number of issues, including but not limited to, the following:

- (i) what constitutes an unfair practice;
- (ii) the content of contracts;
- (iii) a requirement for a disclosure statement to accompany contracts;
- (iv) a requirement that a disclosure statement be accompanied by a price comparison;
- (v) the contract verification and renewal processes;
- (vi) contract cancellation;
- (vii) training for persons acting on behalf suppliers; and

- (viii) a requirement for suppliers to submit a certification to the Board as a condition of entering into or renewing contracts.

With the exception of the requirement pertaining to price comparisons, the issues listed above were also addressed in the Draft Regulations. Although the Final Regulations differ in a number of respects from the Draft Regulations, overall the Final Regulations assign to the Board much the same responsibilities as did the Draft Regulations.

The Board has considered the comments received from stakeholders as well as the provisions of the Final Regulations, and has determined that revisions should be made to the August Proposed Amendments. The text of the revised proposed amendments (the "Revised Proposed Amendments") is set out in the Attachments to this Notice. For convenience, the Retailer Code and the Marketer Code are provided in both a clean version and a comparison version that shows all of the proposed revisions relative to the August Proposed Amendments. The disclosure statements, verifications scripts, and renewal/extension scripts are only provided in clean versions.

The following documents are attached to this Notice:

- (i) Attachment A, containing a clean version of the revised proposed restated Retailer Code;
- (ii) Attachment B, containing a comparison version of the revised proposed restated Retailer Code;
- (iii) Attachment C, containing a clean version of the revised proposed restated Marketer Code;
- (iv) Attachment D, containing a comparison version of the revised proposed restated Marketer Code;
- (v) Attachment E, containing the revised proposed disclosure statements contemplated in the restated Retailer Code and the restated Marketer Code;

- (vi) Attachment F, containing the proposed price comparison templates contemplated in the restated Retailer Code and the restated Marketer Code;
- (vii) Attachment G, containing the revised proposed scripts for contract verification calls contemplated in the restated Retailer Code and the restated Marketer Code (including a new proposed “dual fuel” script);
- (viii) Attachment H, containing the revised proposed scripts for contract renewal/extension calls contemplated in the restated Retailer Code and the restated Marketer Code (including a new proposed “dual fuel” script); and
- (ix) Attachment I, containing the proposed amendment to the GDAR, in the same form in which it was proposed in the August Notice.

As indicated in the August Notice, any required changes to the licences of suppliers will be addressed separately from this notice and comment process.

As also indicated in the August Notice, any required changes to the EBT Standards for gas and electricity are similarly being addressed separately from this notice and comment process. On August 20, 2010, the Board issued a letter to the EBT Standards Working Group for Retail Settlement and the GDAR EBT Standards Working Group to request that they identify any issues related to the current electricity and gas EBT processes arising from the implementation of the ECPA, the Draft Regulations and the August Proposed Amendments. By letter dated October 6, 2010, the EBT Standards Working Groups reported back to the Board on the progress of their discussions.

Issues were identified by members of the EBT Standards Working Group for Retail Settlement in relation to the following: (1) the provision in the Draft Regulations requiring an electricity distributor to read a consumer’s meter within a certain period of time after the consumer gives notice of the cancellation of a contract with a retailer; and (2) the provision in the proposed restated Retailer Code requiring a retailer to reverse a transfer request in certain cases. The Board notes in respect of item (1) that comparable provisions exist today in the

OEB Act and Ontario Regulation 200/02 and, in respect of item (2), that the provision has been in the Retailer Code for some time and is currently applicable to both low volume and large volume consumers.

Issues were identified by members of the GDAR EBT Standards Working Group in relation to the following: (1) the provision in the Draft Regulations to the effect that the cancellation of a contract in certain cases takes effect no later than the date the consumer's meter is read or 60 days after notice is given to the marketer; and (2) the fact that the new rights under the ECPA and the Draft Regulations apply only to low volume consumers, and that any changes to the GDAR and EBT standards should be similarly limited in their application. The Board notes in respect of item (1) that the provisions of the Final ECPA Regulation differ from those in the Draft Regulations insofar as the effective date of cancellation is concerned. With respect to item (2), as discussed below the Board is no longer proposing to capture transactions with large volume electricity consumers in terms of provisions that are new to the Retailer Code, although the Board is proposing to retain the amendment to the GDAR as proposed in the August Proposed Amendments.

The Board will issue a further request to each of the two EBT Standards Working Groups asking them to confirm whether any additional issues arise under the Final Regulations or the Revised Proposed Amendments.

## **B. Overview of Comments Received**

Stakeholders provided a number of comments in relation to the Board's proposed approach as described in the August Notice and the August Proposed Amendments.

Representatives of low volume consumers and vulnerable energy consumers were generally supportive of the proposed approach, although some sought greater clarity and some favoured the inclusion of a requirement that suppliers provide prospective customers with price comparisons as part of the contracting process.

In contrast, suppliers expressed concerns with many elements of the Board's proposed approach. Suppliers suggested revisions that they believed would

result in an approach that is less confusing or less onerous for consumers. Suppliers also stated that they believed that their proposed revisions would result in fewer barriers to innovation in relation to offers, bundled products, and new services of value to consumers. Some suppliers proposed that changes should be made to the disclosure statements, verification scripts, and renewal/extension scripts contained in the August Proposed Amendments to make them more “consumer friendly”.

A number of suppliers expressed concern regarding the fact that the Board was proposing to extend the application of certain of the proposed new regulatory requirements to transactions involving large volume electricity consumers, notably the provisions contemplated in section 2 and section 5 of the proposed restated Retailer Code regarding business cards, identification badges and training requirements.

A number of comments were also made in relation to provisions contained in the EPCA or the Draft Regulations.

Further detail regarding many of the more material comments received, and the extent to and manner in which they are proposed to be addressed by the Board, is set out in section C below.

## **C. Proposed Revisions to the August Proposed Amendments**

### **I. Issues Where Revisions to the August Proposed Amendments are Proposed**

The Board is proposing to retain the overall approach to implementation of the consumer protection provisions of the ECPA relating to the activities of suppliers as set out in the August Notice and the August Proposed Amendments. However, based on the comments received, the Board is proposing a certain number of revisions to the August Proposed Amendments. There are also a number of revisions that need to be made to the August Proposed Amendments to account for changes from the Draft Regulations to the Final Regulations. This section describes the more significant of those proposed revisions.

(a) *Large Volume Consumers*

A number of suppliers expressed concern regarding the Board's proposal to extend the application of certain of the proposed new regulatory requirements to transactions involving large volume electricity consumers. In particular, suppliers were concerned about the provisions contemplated in section 2 and section 5 of the proposed restated Retailer Code regarding business cards, identification badges and training requirements in relation to large volume consumer transactions.

The Board notes that, unlike the Draft Regulations, the provisions of the Final OEBA Regulation that mandate the use of business cards and identification badges and that address training requirements now generally refer more specifically to low volume consumers, and not consumers generally. Although this does not preclude the Board from extending these obligations to interactions with large volume electricity consumers, the Board is persuaded by the comments received from stakeholders that there is no need to do so at this time. The Board is therefore proposing to revise the August Proposed Amendments (sections 1.1, 2.1 to 2.5 and 5.1 to 5.4 of the proposed restated Retailer Code) to confirm that the proposed requirements regarding business cards, identification badges and training requirements do not apply when retailing to large volume electricity consumers.

Consistent with this revised approach, the Board is also proposing to revise the August Proposed Amendments to confirm that the compliance monitoring provisions do not apply when retailing or marketing to large volume electricity consumers (sections 7.4 to 7.6 of the proposed restated Retailer Code). As stated in the August Notice, however, the Board expects all licensed suppliers, including electricity retailers that transact only with large volume consumers, to have and maintain a formal process or program that enables them to monitor their compliance and to identify any need for remedial action.

(b) *Training*

The August Proposed Amendments included new provisions in relation to the obligations of suppliers to ensure successful completion of training by salespersons and verification representatives. Specifically, a minimum pass

mark of 90% was proposed for training tests. A number of suppliers expressed objections to the proposed pass rate for training tests, and noted that a more appropriate minimum pass mark would range from 60% to 75%. The Board remains of the view that appropriate training and testing plays an important role in ensuring that the conduct of suppliers is in compliance with all applicable legal and regulatory requirements. However, the Board is persuaded that the proposed 90% rate may be too high to set as a standard at this time. The Board is therefore proposing to revise section 5.6(c) of the proposed restated Retailer Code and the proposed restated Marketer Code to reduce the minimum pass mark for training tests to 80%.

*(c) Disclosure Statements*

A number of stakeholders expressed concerns about the proposed disclosure statements. Specifically, stakeholders recommended changes to the disclosure statements contained in the August Proposed Amendments to make them more “consumer friendly”. The Board agrees that the disclosure statements should be clear to consumers, and has taken these comments into consideration in revising the proposed disclosure statements. The Board is proposing a number of revisions to each of the proposed disclosure statements with a view to simplifying them as much as possible without detracting from the key pieces of information that the Board believes should be provided to consumers.

Suppliers recommended that the Board remove the reference to salesperson name and identification number on the proposed disclosure statements, indicating that these items would not be applicable for general mailings (i.e., direct mail), internet contracts or contract renewals. The Board is proposing to amend the disclosure statements accordingly. The revised proposed disclosure statements no longer make provision for any supplier-specific or contract-specific information.

The Final ECPA Regulation requires that disclosure statements be signed to acknowledge receipt, and further specifically contemplates that, in the case of contract renewals or extensions, the acknowledgement is to the effect that the consumer has read and understood the disclosure statement. In furtherance of these provisions, the Board is proposing to include a signature space on each of the revised proposed disclosure statements.

The proposed disclosure statements included in the August Proposed Amendments contained statements regarding the “Provincial Benefit”. The Board notes that, on August 27, 2010, the government posted for comment a “Proposal to Make a Regulation under the Electricity Act to Amend O. Reg. 429/04” that would change the way that the global adjustment is recovered from electricity consumers. One element of this “Proposal” is that bills issued to low volume consumers that are customers of retailers would no longer refer to the “Provincial Benefit”, but instead would refer to the “Global Adjustment” effective January 1, 2011. The Board is therefore proposing revisions to the proposed electricity disclosure statements to reflect this potential change in nomenclature. Should this potential change in nomenclature not be adopted or be revised, the Board will modify the electricity disclosure statements accordingly.

Representatives of low volume consumers and vulnerable energy consumers raised concerns regarding the impact on equal billing of entering into a retail contract. Among other things, it was suggested that the disclosure statements should include a warning to the effect that a change in supplier could have significant financial consequences in the event that the consumer is on an equal billing plan.

The Board is currently further examining issues relating to equal billing for retailer-enrolled customers in its on-going consultation on electricity distributor customer service rules (consultation process EB-2007-0722) and will consider as part of that consultation the concerns raised by these stakeholders. However, the Board believes that this notice and comment process is the appropriate forum in which to deal with the more specific issue of disclosure.

Based on information obtained as part of the customer service rules consultation, less than half of the electricity distributors that make an equalized billing or equalized payment option available make that option available to consumers that have a contract with a retailer. As such, in many cases one of the consequences of entering into a contract with a retailer is the loss of the equalized billing or equalized payment option. The Board believes that this potential outcome is one that should be brought to the attention of consumers, and is proposing to revise the disclosure statements applicable to new electricity contracts accordingly. In the event that the outcome of the consultation on customer service rules

necessitates a change to this approach, the Board will revisit the issue at that time.

It is the Board's understanding that the large rate-regulated gas distributors currently make their equal billing or equal payment options available equally to both their system gas customers and to consumers that have a contract with a gas marketer. As such, the Board does not believe that the disclosure statements applicable to new gas contracts need to be revised to address the equal billing issue.

As contemplated in the August Notice, the Board has undertaken format and graphic design work related to the disclosure statements contained in the August Proposed Amendments, and the overall appearance and form of the revised proposed disclosure statements is quite different as a result of that exercise. The Board anticipates that further format or design work will be undertaken to ensure uniformity of all of the disclosure statements.

*(d) Price Comparisons*

Many stakeholders also provided comments regarding the proposed disclosure statements in relation to price comparisons. Representatives of low volume consumers and vulnerable energy consumers favoured the inclusion of price comparisons in the Board's proposed disclosure statements. In contrast, suppliers objected to the inclusion of price comparisons in the proposed disclosure statements.

Suppliers objected to the Board requiring line-by-line price comparisons between utility rates and retail offerings. Suppliers suggested that this would create a requirement that will be difficult, if not impossible, to comply with and will not provide consumers with accurate and timely data or relevant comparisons. The suppliers stated that they would fully support a requirement that consumers, at the time of sale, be provided with the Board's website address and directions on accessing the Board's online bill calculator. It was the suppliers' view that it was unnecessarily burdensome to require suppliers to essentially duplicate something that is provided by the regulator.

The Final ECPA Regulation contains a new provision that states that a disclosure statement must be accompanied by a price comparison that contains such information as may be required by a code, order or rule issued or made by the Board. The Final ECPA Regulation also contains provisions similar to those applicable to disclosure statements in relation to the signature of the price comparisons.

Therefore, the Board is proposing to include requirements in the proposed restated Retailer Code and the proposed restated Marketer Code (sections 4.6 to 4.9) relating to price comparisons. Specifically, the Board is proposing that suppliers use a template developed by the Board which contains some explanatory text regarding the price comparison document as well as details regarding utility pricing and assumptions regarding consumer consumption levels and electricity consumer time-of-use consumption profiles. In developing the templates, the Board has considered the comments received from stakeholders regarding price comparisons.

Different versions of the price comparison templates are proposed for each of the following:

- i. residential electricity consumers;
- ii. non-residential low volume electricity consumers;
- iii. residential gas consumers served by rate-regulated gas utilities (a different price comparison sheet for each will be required to accommodate different system supply prices);
- iv. non-residential low volume gas consumers served by rate-regulated utilities (again, a different price comparison sheet for each will be required to accommodate different system supply prices); and
- v. residential and non-residential low volume gas consumers served by non rate-regulated gas utilities (notably, Kitchener Utilities and Utilities Kingston), similar to (iii) and (iv) above.

Different versions of the proposed price comparison templates have been prepared for use in the gas sector to accommodate situations where transportation and/or storage costs are covered in a gas marketer's contract. If gas marketers confirm that their business practices are such that one or more of these versions is not required, the version(s) in question may not be required on a going-forward basis.

The Board is proposing to populate the utility pricing information included in Part A of each price comparison template, and to make revised versions of each template available as and when the utility pricing information changes (semi-annually for electricity under the Regulated Price Plan and, as a general rule, quarterly for gas as part of the QRAM process).

The Board is also proposing to populate the consumption and time-of-use consumption profile information included in Part A of the price comparison templates, and to update that information from time to time (as and when required, these updates would be made at the same time as the Board issues revised versions of the templates to accommodate changes in utility pricing). For the residential electricity consumer template, the Board is proposing to use consumption and time-of-use consumption profile information that the Board believes is representative of a typical residential electricity consumer (this also being the information used by the Board for the purposes of its interactive on-line bill calculator) at the relevant time. For the residential gas consumer templates, the Board is proposing to use consumption information obtained from the rate-regulated gas utilities at the relevant time (taken from their respective QRAM filings).

Non-residential low volume consumers can have consumption levels and time-of-use consumption profiles that differ considerably from one to the other. Consumption and time-of-use consumption profile data comparable to that available in relation to residential consumers does not appear to be readily and systematically available for non-residential low volume consumers in either the gas or the electricity sector. The Board is therefore proposing the following for non-residential low volume consumers:

- (a) for consumption, the Board is proposing to use three illustrative consumption levels, one that is close to the level for a residential

consumer, another that is close to the level beyond which the consumer ceases to qualify as a low volume consumer, and another that is the mid-point between the two; and

- (b) for time-of-use consumption profile, the Board is proposing to use the same profile as that used for residential consumers, and to include in the price comparison template a statement that highlights this for the consumer.

The Board is not proposing to prescribe the specific format to be used by suppliers in describing their contract price offers. The Board cannot reasonably anticipate the different offers that may be developed by suppliers over time, and believes that suppliers are in the best position to describe their contract price offers to prospective customers. However, the Board is proposing to mandate certain minimum requirements for supplier contract price disclosure, including in relation to the data to be used for purposes of disclosure of the Global Adjustment in the electricity price comparisons.

The Board is inviting comment on the proposed price comparison templates that are set out in Attachment F to this Notice. The Board will be particularly interested in alternative proposals that stakeholders may wish to bring forward regarding the consumption and time-of-use consumption profile information to be used in the price comparison templates for non-residential low volume consumers.

In the coming weeks, the Board will be addressing issues of format and graphic design, and interested parties should therefore be aware that the overall appearance and form of the price comparison templates may change substantially as a result of that exercise.

(e) *Verification Scripts and Renewal/Extension Scripts*

A number of stakeholders recommended changes to the verification scripts and renewal/extension scripts contained in the August Proposed Amendments to make them more “consumer friendly”, and also suggested that the renewal/extension scripts accommodate the possibility that multiple renewal/extension offers might be made to a consumer at the time of

renewal/extension. The Board has taken these comments into consideration when developing the revised proposed verification scripts and renewal/extension scripts set out in Attachments G and H to this Notice.

A number of suppliers recommended that, where both gas and electricity supply contracts are sold and are to be verified, a supplier should be allowed to verify both products using a combined script that meets the criteria established by the Board as it pertains to each commodity rather than being required to read the script twice, once for each fuel type. The same comments were made in regards to the renewal/extension scripts. The Board sees merit in the approach suggested by suppliers and is therefore proposing to make provision for “dual fuel” verification and renewal/extension scripts. The Board is inviting comment on the proposed “dual fuel” scripts set out in Attachments G and H to this Notice.

In addition, the Board is proposing to add to each of the verification and renewal/extension scripts new statements pertaining to the price comparisons that are now required by the Final ECPA Regulation.

The Final ECPA Regulation also contains a new provision to the effect that a consumer must be advised of the reason why the verification process is being discontinued in certain cases (where an unfair practice has or may have occurred or where the consumer did not receive a text-based copy of the contract or disclosure statement). The Board is proposing to revise the verification and renewal/extension scripts to include provisions that require the verification representative or salesperson to provide such an explanation in each relevant case. Consequential revisions to sections 4.11 and 4.14 of the proposed restated Retailer Code and of the proposed restated Marketer Code are also proposed.

The Board is also proposing to include, as part of the renewal/extension script for gas contracts, a requirement that the salesperson remind the consumer of the fact that the contract may be automatically renewed. The Board is proposing that this statement be made where the marketer is offering automatic renewal and where the consumer wishes to terminate the call because the consumer needs more time to make a decision.

(f) *Certification*

Section 6.4 of the proposed restated Retailer Code and of the proposed restated Marketer Code contains a requirement that suppliers file a self-certification statement on compliance with applicable legal and regulatory requirements annually by April 30. Suppliers argued that, for those suppliers that certified their compliance in accordance with the Draft Regulations prior to January 1, 2011, they should not have to re-certify again before April 30, 2011. The suppliers requested that the Board direct that, where a supplier has certified within 6 months of April 30, 2011, they are deemed to have met the annual filing requirement for the initial year.

In accordance with the Final OEBA Regulation, a supplier may not conduct market activities in relation to low-volume consumers on or after January 1, 2011 until the supplier has filed a certificate of compliance with the Board and received acknowledgement of it. Since a supplier will have to file the certificate of compliance in order to be active in 2011, the Board agrees that it is not necessary for suppliers to also file a self-certification statement by April 30 of 2011 under the proposed annual certification requirement. The Board is therefore proposing to revise section 6.4 of the proposed restated Retailer Code and of the proposed restated Marketer Code to provide that the first annual self-certification statement under the proposed restated Codes will not be required until 2012.

The Board is also proposing to revise the form of the certificate of compliance set out in Appendix A of the proposed restated Retailer Code and of the proposed restated Marketer Code to confirm that a number of the certification statements made are applicable only on and after the later of the Effective ECPA Date and the date on which the certificate is signed by the supplier and filed with the Board (referred to in the Codes as the "Effective Certification Date"). The Board has also included in the form of the certification of compliance references to the price comparisons that are now required by the Final ECPA Regulation.

(g) *Other*

Suppliers recommended that section 3.8 of the proposed restated Retailer Code and section 3.6 of the proposed restated Marketer Code be amended to allow

suppliers at least 5 business days to notify customers of a pending transfer request when a customer signs a contract with another supplier. In the August Proposed Amendments, the Board had proposed a period of 2 business days for a supplier to fulfill this obligation. Suppliers indicated they will require 5 business days to notify customers to allow for: (a) text-based notifications to be processed by the supplier, sent for printing, and then sent to Canada Post for delivery; and (b) attempts to contact the consumer by phone. The Board believes that this revision is warranted and is therefore proposing to amend section 3.8 of the proposed restated Retailer Code and section 3.6 of the proposed restated Marketer Code accordingly.

The Board is also proposing revisions to the August Proposed Amendments to account for changes between the Draft Regulations and the Final Regulations. These revisions include: (i) changing one of the defined terms in the proposed restated Retailer Code and the proposed restated Marketer Code and defining the "Effective ECPA Date" as January 1, 2011; (ii) changing "certification of compliance" throughout the proposed restated Retailer Code and the proposed restated Marketer Code to "certificate of compliance"; (iii) changing section 3.8 of the proposed restated Retailer Code and section 3.6 of the proposed restated Marketer Code to reflect the fact that the Final ECPA Regulation establishes a time limit beyond which a voice recording need not be provided to a low volume consumer within 10 days of the consumer's request; (iv) changing Part C of the proposed restated Retailer Code and of the proposed restated Marketer Code to reflect the transitional provisions that have been included in the Final ECPA Regulation (these provisions are discussed below); (v) removing the reference to the 15-day waiting period for renewal/extension calls from the proposed renewal/extension scripts, as the underlying provision in the Draft Regulations has not been carried over to the Final ECPA Regulation; and (vi) changing the proposed disclosure statements and the proposed verification scripts to reflect the fact that the window for verification under the Final ECPA Regulation is 10 to 45 days, rather than the 10-30 day window contemplated in the Draft Regulations.

## **II. Issues Where No Revisions to the August Proposed Amendments are Proposed**

This section sets out the Board's views on a number of issues associated with the August Proposed Amendments for which the Board is not proposing any revisions.

### *(a) Implementation*

Suppliers recommended a transitional approach to the implementation of the proposed changes to the retail markets and requested that the Board consider allowing suppliers to begin doing business under the new rules before January 1, 2011 and that any business conducted under the new rules before January 1, 2011 should be considered to be in compliance even if not in compliance with existing rules. They also recommended that the transition period for contract renewals should be from the date the ECPA comes into effect to 120 days after that date.

These comments relate to implementation issues that arise from the legislative regime and not from the Board's specific proposals. It is not within the Board's authority to alter that legislative regime, nor does the Board believe that it is generally appropriate for it to dispense with compliance with legislative requirements that apply at a given point in time.

The Board notes that the Final ECPA Regulation now contains transitional rules that address some of the transitional issues identified by the Board in the August Notice. The Board believes that these transitional rules are consistent with the manner in which the Board proposed to address the following transitional scenarios in the August Proposed Amendments: (a) contracts signed before the Effective ECPA Date but not reaffirmed before that date (these remain subject to the current rules pertaining to reaffirmation, which have been restated in the Final ECPA Regulation); and (b) existing contracts that are due to expire after the Effective ECPA Date (these can only be renewed or extended in accordance with the new rules set out in the ECPA and the Final Regulations, regardless of whether a renewal offer was sent to the customer before the Effective ECPA Date provided that the offer was still outstanding on that date).

(b) *Certification*

Suppliers were concerned with the August Proposed Amendments regarding certification. Suppliers recommended that the Board remove the requirement that a supplier must obtain the Board's written acknowledgement of the certification before conducting business. They suggested that the Board allow a supplier to file the certification and continue with market activity after the Effective EPCA Date whether the written acknowledgement has been received from the Board or not. Suppliers also recommended changes to the form of certification as set out in the proposed restated Retailer Code and the proposed restated Marketer Code.

The requirement to receive a written acknowledgment from the Board was set out in the Draft Regulations and has been retained in the Final OEBA Regulation. The Board cannot waive that requirement. As noted in the August Notice, the Board is prepared to accommodate the filing of early certifications from suppliers. Specifically, in order to ensure that the requirement to certify does not unduly constrain market activity after January 1, 2011 for suppliers that are in compliance, the Board is proposing to accept the filing of certificates of compliance prior to that date. In such cases, provided that the certification meets all applicable requirements, the Board anticipates that it will be in a position to issue written acknowledgements in the first week of January, 2011.

(c) *Training*

A number of suppliers expressed objections to different elements of the August Proposed Amendments regarding training. Many suppliers recommended that the Board provide approval of training materials, reduce the passing grade for testing (addressed above), and eliminate the provision that allows a person to only re-take a test once. Another supplier commented that the Board should offer agent training, testing, and certification for a fee. Representatives of low volume consumers recommended that the Board review training materials to ensure compliance.

In the Board's view, suppliers themselves are in the best position to develop their own training materials. The Board also believes that responsibility for the development of accurate and adequate training materials and for the

development and application of testing materials should rest with suppliers. The Board is therefore not proposing to change its approach by either mandating training and testing materials or requiring that they be submitted to the Board for approval. As indicated in the August Notice, if it appears that a supplier's training or testing materials may be deficient, the Board will take such remedial action as may be warranted.

The Board also remains of the view that a person should only be permitted to re-take a training test once, and is therefore not proposing to revise this element of the August Proposed Amendments. However, as noted above, the Board is proposing to reduce the minimum pass mark from 90% to 80%, which should alleviate some of the suppliers' concerns regarding the "one re-take" limitation.

A representative of low volume consumers recommended that salespersons and verification representatives be required to receive explicit training regarding the Provincial Benefit/Global Adjustment. The August Proposed Amendments include a list of the compulsory subject-matters to be covered as part of the training for different persons acting on behalf of a supplier, and that list includes the structure of the electricity market and how electricity pricing works. The Board expects that this will include training regarding the Provincial Benefit/Global Adjustment, and is satisfied that the August Proposed Amendments are adequate in this regard.

*(d) Disclosure Statements*

Many suppliers recommended that the Board create a single disclosure statement that captures both gas and electricity contracts. The Board believes that a single disclosure statement would be more confusing for consumers. Among other things, the proposed disclosure statements reflect material differences between the two sectors in terms of the market (notably the issue of the Provincial Benefit/Global Adjustment in electricity and the issue of transportation and storage costs in gas) and in terms of consumer rights under the ECPA and the Final Regulations (notably cancellation rights and automatic renewals). Therefore, the Board remains satisfied that having separate disclosure statements for each fuel is appropriate in the circumstances.

Stakeholders questioned whether the information provided in the disclosure statements was appropriate and would truly benefit consumers. Suppliers were concerned about the lack of opportunity for suppliers to customize the disclosure statements. As stated in the August Notice, the purpose of the disclosure statement is to provide low volume consumers with key information about contracting for electricity or natural gas, expressed in terms that are as easy as possible to understand and presented separate and apart from any promotional information. It remains the Board's view that it is important that all suppliers be required to use the same disclosure statements, and that disclosure statements be available in a number of languages. The Board believes that this is best achieved by the approach embodied in the August Proposed Amendments.

Suppliers recommended that the Board amend or remove the statement in the disclosure statements that there is no guarantee of savings, stating that some products offered will and do guarantee savings. The Board is currently not aware of any products or offerings from suppliers that guarantee savings to consumers over the full term of a contract relative to the utility supply price. The Board is therefore not proposing to make any changes to the proposed disclosure statements in response to this recommendation. However, where a supplier believes that it can demonstrate to the satisfaction of the Board that a particular product or offer will, in all cases, guarantee savings to consumers relative to the utility supply price over the entire term of the contract, the Board is prepared to consider an application by that supplier to allow it to use a modified version of the disclosure statements (and other applicable materials such as the Board-approved scripts) that do not contain the "no guarantee of savings" statement.

(e) *Verification Scripts and Renewal/Extension Scripts*

Suppliers stated that any items included in the applicable disclosure statement that are also included in the verification scripts and renewal/extension scripts are repetitive and should be removed from the scripts. Given the importance of the statements made in the disclosure statements and the time lag from point-of-sale to verification or from issuance of the renewal package to when a telephone renewal may take place, the Board remains of the view that it is appropriate for the scripts to repeat elements of the applicable disclosure statement.

A low volume consumer representative recommended that the Board consider developing the scripts in the same languages as proposed for the disclosure statements. The Board believes that the interests of consumers are adequately protected by the provisions in the Final ECPA Regulation that allow a consumer to obtain relief in circumstances where the consumer was not reasonably able to protect his or her interests by reason of not understanding the language in which a representation is made. This protection is enhanced by the Board's proposal, as set out in the August Proposed Amendments, that verification calls or renewal/extension calls be terminated when the consumer is not comfortable with the call proceeding in English. In addition, the Board is not aware of any supplier that is currently conducting reaffirmation or renewal activities in a language other than English. Therefore, the Board is not proposing to translate its proposed verification and renewal/extension scripts at this time.

*(f) Other*

Suppliers recommended that section 2.4(a) of the proposed restated Retailer Code and of the proposed restated Marketer Code be amended as it is impractical for a salesperson to wear two identical badges if selling dual fuel products. The Board confirms that it does not expect a salesperson to have two identical identification badges when selling a dual fuel product on behalf of the same supplier. The identification badge requirements in the proposed restated Retailer Code and the proposed restated Marketer Code are almost identical, and the Board believes that it is feasible for one badge to be produced that is compliant with both Codes. The Board does not believe that any change is required to the August Proposed Amendments in this regard.

Suppliers commented that the proposed amendment to the GDAR should not apply in relation to transactions involving large volume consumers. As described in the August Notice, the proposed amendment to the GDAR does no more than clarify that a gas distributor can process a transfer request that is made by a gas vendor further to cancellation of a contract by the consumer. The proposed amendment does not provide any new cancellation rights to any consumers, be they low- or large- volume. Whatever cancellation rights a large volume consumer may have, the GDAR should not act as a barrier to the due exercise of those rights. The Board is therefore not proposing to make any revisions to the

proposed amendment to the GDAR as set out in the August Proposed Amendments.

As part of the proposed restated Retailer Code and the proposed restated Marketer Code, the Board proposed that, in the case of a contest, the current supplier be required to give notice to the consumer of a pending transfer request to switch the consumer to a new supplier. As indicated in the August Notice, this proposal is intended to ensure that a consumer has the full benefit of the opportunity provided by the “contest period” to terminate the transfer. Some suppliers recommended that the Board instead direct utilities to reject the transfer request from the new supplier in the event of a contest.

In the Board’s view, this recommendation would materially affect consumer choice in the retail markets, and the Board is not proposing to adopt it.

One supplier commented that the Retailer Code and the Marketer Code should apply only to low volume consumers. As noted in the August Notice, the Board’s licensing authority in relation to gas marketers extends only to their activities in relation to low volume consumers. By contrast, the Board’s licensing authority in relation to electricity retailers extends to all consumers, although low volume consumers have the benefit of specific statutory consumer protection rules. As a result, the Retailer Code currently contains provisions applicable to all consumers (for example, certain of the “fair marketing practices”), as well as provisions that are specific to retailing activities aimed at or involving low volume consumers. As noted above, the Board is no longer proposing to extend the new requirements in the proposed restated Retailer Code (identification badges, business cards, training and compliance monitoring) to transactions with large volume electricity consumers. However, the Board is not persuaded that it is desirable at this time to eliminate the existing provisions of the Retailer Code that currently apply to those transactions and that have done so for some time.

Representatives of suppliers suggested that section 1.8.1 of the proposed restated Retailer Code and of the proposed restated Marketer Code be clarified to confirm that the section only relates to the interpretation of those Codes and not the ability to alter the Codes or complete an enforcement action against a supplier without a hearing. As indicated in the August Notice, section 1.8.1 of each of the proposed restated Codes reiterates provisions contained in the OEB

Act. The section does not affect the requirement that material changes to the provisions of a code or rule be effected through the relevant statutory notice and comment process, nor does it affect the requirement that enforcement proceedings be conducted in accordance with Part VII.1 of the OEB Act. The Board does not believe that any changes are required to the August Proposed Amendments in this regard.

A number of stakeholders expressed concerns with and suggested changes to the provisions of the ECPA and the Draft Regulations. These issues are not within the Board's authority, and the Board cannot effect changes to those provisions.

#### **D. Anticipated Costs and Benefits**

The anticipated costs and benefits of the August Proposed Amendments were set out in the August Notice, and interested parties should refer to the August Notice for further information in that regard.

The Board believes that the Revised Proposed Amendments will provide greater certainty and clarity in terms of the implementation of the consumer protection provisions (retailer/marketer) of the ECPA relative to the August Proposed Amendments, and will ensure consistency with the Final Regulations. The Board does not believe that the Revised Proposed Amendments will result in incremental costs for suppliers, distributors, or consumers relative to the costs associated with implementation of the August Proposed Amendments.

#### **E. Coming into Force**

As was the case with the August Proposed Amendments, the Board is proposing that the revised proposed restated Retailer Code, the revised proposed restated Marketer Code, and the proposed amendment to the GDAR come into force on the Effective ECPA Date.

#### **F. Cost Awards**

Cost awards will be available **to a maximum of 10 hours** per eligible participant in respect of the provision of written comments on the following: (i) the revised

proposed restated Retailer Code and the revised proposed restated Marketer Code set out in Attachments A and C, respectively, to this Notice; and (ii) the revised proposed disclosure statements, proposed price comparisons, revised proposed verification call scripts and revised proposed renewal/extension call scripts set out in Attachments E, F, G, and H, respectively, to this Notice.

### **G. Invitation to Comment**

All interested parties are invited to submit written comments on the revised proposed restated Retailer Code and the revised proposed restated Marketer Code set out in Attachments A and C, respectively, to this Notice, and on the revised proposed disclosure statements, proposed price comparisons, revised proposed verification call scripts and revised proposed renewal/extension call scripts set out in Attachments E, F, G, and H, respectively, to this Notice. The deadline for the submission of comments is **October 29, 2010**. Interested parties are requested to focus their comments on the revisions proposed to those regulatory instruments relative to the versions that were released as part of the August Proposed Amendments. The Board does not intend to revisit the issues addressed in section C.II of this Notice.

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

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

The Board requests that interested parties make every effort to provide electronic copies of their filings in searchable/unrestricted Adobe Acrobat (PDF) format, and to submit their filings through the Board's web portal at [www.errr.oeb.gov.on.ca](http://www.errr.oeb.gov.on.ca). A user ID is required to submit documents through the Board's web portal. If you do not have a user ID, please visit the "e-filings services" webpage on the Board's website at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca), and fill out a user ID password request. Additionally, interested parties are requested to follow the document naming conventions and document submission standards outlined in the document

entitled “RESS Document Preparation – A Quick Guide” also found on the e-filing services webpage. If the Board’s web portal is not available, electronic copies of filings may be filed by e-mail at [boardsec@oeb.gov.on.ca](mailto:boardsec@oeb.gov.on.ca).

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

Filings to the Board must be received by the Board Secretary by **4:45 p.m.** on the required date. They must quote file number **EB-2010-0245** and include your name, address, telephone number and, where available, your e-mail address and fax number.

This Notice, including the revised proposed restated Retailer Code, the revised proposed restated Marketer Code and the proposed amendment to the GDAR set out in Attachments A, B, C, D and I, respectively, to this Notice and the revised proposed disclosure statements, proposed price comparisons, revised proposed verification call scripts and revised proposed renewal/extension call scripts set out in Attachments E, F, G, and H, respectively, to this Notice, and all written comments received by the Board in response to this Notice, will be available for public viewing on the Board’s web site at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca) and at the office of the Board during normal business hours.

If you have any questions regarding this consultation, please contact Lou Mustillo at [lou.mustillo@oeb.gov.on.ca](mailto:lou.mustillo@oeb.gov.on.ca) or at 416-544-5185. The Board’s toll free number is 1-888-632-6273.

**DATED** at Toronto, October 15, 2010

**ONTARIO ENERGY BOARD**

*Original signed by*

John Pickernell  
Assistant Board Secretary

Attachments:

- Attachment A: Revised Proposed Restated Electricity Retailer Code of Conduct
- Attachment B: Revised Proposed Restated Electricity Retailer Code of Conduct (comparison version for information purposes only)
- Attachment C: Revised Proposed Restated Code of Conduct for Gas Marketers
- Attachment D: Revised Proposed Restated Code of Conduct for Gas Marketers (comparison version for information purposes only)
- Attachment E: Revised Proposed Disclosure Statements
- Attachment F: Proposed Price Comparison Templates
- Attachment G: Revised Proposed Verification Call Scripts
- Attachment H: Revised Proposed Renewal/Extension Call Scripts
- Attachment I: Proposed Amendment to the Gas Distribution Access Rule

**Attachment A**

**Revised Proposed Restated Electricity Retailer Code of Conduct**

*[see separate document attached]*



# **ONTARIO ENERGY BOARD**

## **Electricity Retailer Code of Conduct**

**Revised Restated  
Proposed October 15, 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;

“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 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;

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

"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 389/10 made under the ECPA;

"Effective ECPA Date" means January 1, 2011;

"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 account holder's agent for the premises,

and references in Parts A and B of this Code to “consumer” or “low volume 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 electricity distributor and is not associated with the Ontario Energy Board or the Government of Ontario;
  - (b) if retailing to a low volume consumer in person at a place other than the retailer's place of business, provide the low volume consumer with a business card that meets the requirements of this Code;
  - (c) if retailing to a low volume 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 low volume consumer in person at a place other than the retailer's place of business provides the low volume consumer with a business card that meets the requirements set out in section 2.2 before making any representation to the low volume consumer about the retailer's products, services or business and before requesting any information about the low volume consumer, including asking that the low volume 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 low volume 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 low volume consumer's 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 name of 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 low volume 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 low volume 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 low volume consumer under a contract to which verification applies unless:

- (a) the retailer has given a text-based copy of the contract to the low volume consumer;
- (b) the retailer has given the applicable Board-approved disclosure statement to the low volume consumer;
- (c) the retailer has given to the low volume consumer the applicable price comparison that complies with this Code;
- (d) the low volume 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 (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 low volume 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 low volume consumer;
- (b) the retailer has given the applicable Board-approved disclosure statement to the low volume consumer;
- (c) the retailer has given to the low volume consumer the applicable price comparison that complies with this Code;
- (d) the low volume consumer has acknowledged receipt of the text-based contract, the disclosure statement and the price comparison; and

- (e) the low volume 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 low volume 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 5 business days of the date of receipt of that notification, notify the low volume consumer to whom the transfer request relates of the pending transfer request and of the consequences to the low volume consumer if processing of the transfer request is completed. The notification to the low volume 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 low volume 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.

Subject to section 28 of the ECPA Regulation, where a retailer makes a recording of a telephone call under this section, the retailer shall provide a copy of the recording to the low volume consumer within 10 days after the low volume 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, PRICE COMPARISONS, 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 low volume 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 low volume 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 low volume 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 low volume 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.

## **Price comparisons**

- 4.6 A retailer shall ensure that a disclosure statement provided to a low volume consumer is accompanied by a price comparison. For that purpose, the retailer 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 retailer'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 retailer'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 retailer shall ensure that the information regarding the contract price being offered to a low volume consumer that is included by the retailer 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 retailer shall not include in the price comparison any statements of a promotional nature about the products, services or business of the retailer.
- 4.9 If a retailer wishes to provide a low volume consumer with a price comparison in a language other than English, the retailer may provide the low volume 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.

### **Verification of contracts with low volume consumers**

- 4.10 A retailer shall ensure that the verification of a contract with a low volume consumer complies with section 4.11.
- 4.11 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 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 low volume consumer or to provide a factual clarification where the low volume 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 low volume consumer, the verification representative shall terminate the verification call if the low volume 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 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 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 low volume consumer for the purposes of obtaining verification of that contract.

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

4.13 A retailer shall ensure that the renewal or extension of a contract with a low volume consumer complies with section 4.14.

4.14 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 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 low volume consumer, the salesperson shall terminate the renewal or extension call if the low volume 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 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 low volume 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 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 15 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 low volume consumer or negotiates, enters into, verifies, renews or extends a contract with a low volume 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, in each case as they pertain to low volume consumers; and

- (b) adequate and accurate material covering the following areas as they pertain to low volume consumers:
  - (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) price comparisons;
  - (viii) verification;
  - (ix) consumer cancellation rights;
  - (x) renewals and extensions;
  - (xi) how electricity pricing works, including the pricing of electricity supplied by electricity distributors;
  - (xii) persons with whom a retailer 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 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 4.11; and
- (b) adequate and accurate material covering the following areas as they pertain to low volume consumers:

- (i) electricity market structure;
- (ii) behaviour that constitutes an unfair practice;
- (iii) disclosure statements;
- (iv) price comparisons;
- (v) verification;
- (vi) consumer cancellation rights;
- (vii) how electricity pricing works, including the pricing of electricity supplied by electricity distributors;
- (viii) persons with whom a retailer 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 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 applicable to low volume consumers, including the use of the Board-approved script referred to in section 4.14;  
and
- (b) adequate and accurate material covering the following areas as they pertain to low volume consumers:
  - (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) price comparisons;
- (vii) consumer cancellation rights;
- (viii) renewals and extensions;
- (ix) how electricity pricing works, including the pricing of electricity supplied by electricity distributors;
- (x) persons with whom a retailer 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 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 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 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 in relation to low volume consumers 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 in relation to low volume consumers 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 in relation to low volume consumers.
- 5.10 A retailer shall maintain, for each salesperson and verification representative that acts on its behalf in relation to low volume consumers, 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 in relation to low volume

consumers; 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 in relation to low volume consumers, 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 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 retailer indicates “N/A” on the certificate 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 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 retailer’s Chief Executive Officer, Chief Operating Officer, President or person of equivalent position.
- 6.4 Commencing in 2012, 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 low volume 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 low volume consumer, the retailer shall provide to the low volume 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 in relation to retailing to low volume consumers 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 in relation to retailing to low volume consumers, 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 in relation to low volume consumers.

## **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 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 retailer 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 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 low volume consumer in writing to do so; or
  - (b) supply electricity to a low volume consumer unless the retailer has the permission of the low volume consumer in writing to do so, and has received the notice of reaffirmation from the low volume 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 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 the Electricity Retailer Code of Conduct as it read immediately prior to the Effective ECPA Date, or does not contain the signature of the low volume consumer, the retailer shall contact the affected low volume consumer, clearly explain the non-compliance, and offer that low volume 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 low volume consumer does not enter into and validly verify the compliant contract, the retailer shall immediately reverse the transfer request.

## APPENDIX A

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

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

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

“Effective ECPA Date” means January 1, 2011;

“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 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 Retailer 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.

1.4 All statements in this Certificate 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 Certification 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>Certificate 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 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		
<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 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		
<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		

<b>Certificate of Compliance</b>		
	<b>Yes</b>	<b>N/A</b>
be used on and after the Effective Certification Date		
(C) 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		
(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		
<b>4. Verification</b>		
(A) No verification representative acting on behalf of the Retailer 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 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 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 electricity contracts with consumers on and after the Effective Certification Date 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 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 Retailer have undergone training and testing in accordance with all applicable legal and regulatory requirements		

<b>Certificate of Compliance</b>		
	<b>Yes</b>	<b>N/A</b>
(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 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 electricity contracts with consumers on and after the Effective Certification Date is conducted 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 on and after the Effective Certification Date 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 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 electricity 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 Retailer 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		
<b>8. Complaint Handling</b>		
(A) Adequate processes and controls are in place to ensure that consumer complaints on and after the Effective Certification Date alleging non-compliance with any applicable legal or regulatory requirement can be		

<b>Certificate of Compliance</b>		
	<b>Yes</b>	<b>N/A</b>
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 Certificate 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 Certificate of Compliance under Section 6.2 of the Code

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

##### 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 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 this Certificate is signed by the Retailer and filed with the Board;

“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 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 All statements in this Certificate pertain to retailing to low volume consumers.

**Part II: Certification**

Whereas on <insert date> the Retailer filed with the Board a Certificate 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 certificate 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>Certificate 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 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		
<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 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		

<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 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 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 Certificate 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.

**Attachment B**

**Revised Proposed Restated Electricity Retailer Code of Conduct  
(comparison version for information purposes only)**

*[see separate document attached]*



# ONTARIO ENERGY BOARD

## Electricity Retailer Code of Conduct

**Revised Restated**  
Proposed **October 15, 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;

"account holder's agent" has the meaning given to it in the ECPA Regulation;

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

"Board" means the Ontario Energy Board;

Deleted: "authorized agent of the account holder" has the meaning given to it in the ECPA Regulation;¶  
¶

"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;

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

"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 389/10 made under the ECPA;

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"Effective ECPA Date" means January 1, 2011;

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"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;

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"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 account holder's agent for the premises,

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and references in Parts A and B of this Code to “consumer” or “low volume 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 electricity distributor and is not associated with the Ontario Energy Board or the Government of Ontario;
- (b) if retailing to a low volume consumer in person at a place other than the retailer's place of business, provide the low volume consumer with a business card that meets the requirements of this Code;
- (c) if retailing to a low volume 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.

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## 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 low volume consumer in person at a place other than the retailer's place of business provides the low volume consumer with a business card that meets the requirements set out in section 2.2 before making any representation to the low volume consumer about the retailer's products, services or business and before requesting any information about the low volume consumer, including asking that the low volume 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 low volume 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 low volume consumer's 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 name of 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 low volume 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 low volume 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 low volume consumer under a contract to which verification applies unless:

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

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**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 low volume 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 low volume consumer;
- (b) the retailer has given the applicable Board-approved disclosure statement to the low volume consumer;
- ~~(c) the retailer has given to the low volume consumer the applicable price comparison that complies with this Code;~~
- ~~(d) the low volume consumer has acknowledged receipt of the text-based contract, the disclosure statement and the price comparison; and~~

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- (e) the low volume 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 low volume 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**

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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 5 business days of the date of receipt of that notification, notify the low volume consumer to whom the transfer request relates of the pending transfer request and of the consequences to the low volume consumer if processing of the transfer request is completed. The notification to the low volume 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 low volume consumer may be:

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- (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.

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

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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, PRICE COMPARISONS, 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 low volume 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 low volume 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 low volume 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 low volume 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.

## Price comparisons

4.6 A retailer shall ensure that a disclosure statement provided to a low volume consumer is accompanied by a price comparison. For that purpose, the retailer 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 retailer'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 retailer'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 retailer shall ensure that the information regarding the contract price being offered to a low volume consumer that is included by the retailer 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 retailer shall not include in the price comparison any statements of a promotional nature about the products, services or business of the retailer.

4.9 If a retailer wishes to provide a low volume consumer with a price comparison in a language other than English, the retailer may provide the low volume 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.

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### Verification of contracts with low volume consumers

4.10. A retailer shall ensure that the verification of a contract with a low volume consumer complies with section 4.11.

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4.11. 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:

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- (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 low volume consumer or to provide a factual clarification where the low volume 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 low volume consumer, the verification representative shall terminate the verification call if the low volume 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 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.

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4.12. 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 low volume consumer for the purposes of obtaining verification of that contract.

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

4.13. A retailer shall ensure that the renewal or extension of a contract with a low volume consumer complies with section 4.14.

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4.14. 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:

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- (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 low volume consumer, the salesperson shall terminate the renewal or extension call if the low volume 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.

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4.15. Where, following receipt of the material referred to in section 15 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 low volume consumer for the purposes of obtaining the renewal or extension of that contract.

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

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## 5 TRAINING

5.1 A retailer shall ensure that no salesperson or verification representative that acts on its behalf retails to a low volume consumer or negotiates, enters into, verifies, renews or extends a contract with a low volume 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, in each case as they pertain to low volume consumers; and
- (b) adequate and accurate material covering the following areas as they pertain to low volume consumers:
- (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) price comparisons;
  - (viii) verification;
  - (ix) consumer cancellation rights;
  - (x) renewals and extensions;
  - (xi) how electricity pricing works, including the pricing of electricity supplied by electricity distributors;
  - (xii) persons with whom a retailer 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.

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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 4.11; and
- (b) adequate and accurate material covering the following areas as they pertain to low volume consumers:

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- (i) electricity market structure;
- (ii) behaviour that constitutes an unfair practice;
- (iii) disclosure statements;
- (iv) price comparisons;
- (v) verification;
- (vi) consumer cancellation rights;
- (vii) how electricity pricing works, including the pricing of electricity supplied by electricity distributors;
- (viii) persons with whom a retailer 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 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 applicable to low volume consumers, including the use of the Board-approved script referred to in section 4.14;  
and
- (b) adequate and accurate material covering the following areas as they pertain to low volume consumers:

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- (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) price comparisons;
- (vii) consumer cancellation rights;
- (viii) renewals and extensions;
- (ix) how electricity pricing works, including the pricing of electricity supplied by electricity distributors;
- (x) persons with whom a retailer 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 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.

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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.¶

5.6 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 ~~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

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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 in relation to low volume consumers 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 in relation to low volume consumers 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 in relation to low volume consumers.
- 5.10 A retailer shall maintain, for each salesperson and verification representative that acts on its behalf in relation to low volume consumers, 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 in relation to low volume

consumers; 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 in relation to low volume consumers, 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 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.

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6.2 Where a retailer indicates “N/A” on the certificate 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 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.

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6.3 A certificate 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.

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6.4 Commencing in 2012, a retailer shall provide in the form and manner required by the Board, annually by April 30, a self-certification statement on compliance with

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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 low volume 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 low volume consumer, the retailer shall provide to the low volume 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 in relation to retailing to low volume consumers 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 in relation to retailing to low volume consumers, 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 in relation to low volume consumers.

## **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 signed by the consumer on or after November 22, 2010 and before the Effective ECPA Date.

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- 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 30 of the ECPA Regulation.

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#### 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 low volume consumer in writing to do so; or
  - (b) supply electricity to a low volume consumer unless the retailer has the permission of the low volume consumer in writing to do so, and has received the notice of reaffirmation from the low volume 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 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 the Electricity Retailer Code of Conduct as it read immediately prior to the Effective ECPA Date, or does not contain the signature of the low volume consumer, the retailer shall contact the affected low volume consumer, clearly explain the non-compliance, and offer that low volume 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 low volume consumer does not enter into and validly verify the compliant contract, the retailer shall immediately reverse the transfer request.

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## APPENDIX A

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

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

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#### Part I: Definitions and Interpretation

1.1 In this Certificate:

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

“Effective ECPA Date” means January 1, 2011;

Deleted: 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 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.

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1.3 In this Certificate, "N/A" in relation to a given statement means that the Retailer 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.

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

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## 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:

Confirmation of Retailing Activities		
The channels that the Retailer intends to use for the purpose of retailing electricity as of the Effective Certification Date are the following:	Yes	No
(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)		

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<b>Certificate 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 <u>on and after the Effective Certification Date</u> , 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 <u>on and after the Effective Certification Date</u> 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 <u>on and after the Effective Certification Date</u>		
(B) The required disclosure statement <u>and price comparison</u> will be used <u>on and after the Effective Certification Date</u> in accordance with all applicable legal and regulatory requirements		
(C) Adequate processes and controls, designed to ensure that the text-based contracting process <u>on and after the Effective Certification Date</u> 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		

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<b>Certificate of Compliance</b>		
	<b>Yes</b>	<b>N/A</b>
be used <u>on and after the Effective Certification Date</u>		
(C) The required disclosure statement <u>and price comparison</u> will be used <u>on and after the Effective Certification Date</u> in accordance with all applicable legal and regulatory requirements		
(D) Adequate processes and controls, designed to ensure that the internet contracting process <u>on and after the Effective Certification Date</u> is conducted in accordance with all applicable legal and regulatory requirements, are in place		
<b>4. Verification</b>		
(A) No verification representative acting on behalf of the Retailer will be remunerated <u>on and after the Effective Certification Date</u> 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 <u>on and after the Effective Certification Date</u> (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 <u>on and after the Effective Certification Date</u> 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 <u>and price comparison</u> will be used <u>on and after the Effective Certification Date</u> 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		

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<b>Certificate of Compliance</b>		
	<b>Yes</b>	<b>N/A</b>
(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 <u>on and after the Effective Certification Date</u> (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 <u>on and after the Effective Certification Date</u> is conducted 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 <u>on and after the Effective Certification Date</u> 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 <u>on and after the Effective Certification Date</u> 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 <u>on and after the Effective Certification Date</u> 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 <u>on and after the Effective Certification Date</u> 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 <u>on and after the Effective Certification Date</u> alleging non-compliance with any applicable legal or regulatory requirement can be		

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	Yes	N/A
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>

\_\_\_\_\_  
[Signature]  
[Title]

**Notes:**

1. In accordance with section 6.3 of the Board's Electricity Retailer Code of Conduct, this Certificate 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.

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## APPENDIX B

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

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

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#### Part I: Definitions and Interpretation

1.2 In this Certificate:

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“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 this Certificate is signed by the Retailer and filed with the Board;

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“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 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.

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

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**Part II: Certification**

Whereas on <insert date> the Retailer filed with the Board a Certificate 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.

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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 certificate 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.

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<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)		

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<b>Certificate 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 <u>and price comparison</u> 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 <u>and price comparison</u> 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 <u>and price comparison</u> 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 Certificate 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.

**Attachment C**

**Revised Proposed Restated Code of Conduct for Gas Marketers**

*[see separate document attached]*



# **ONTARIO ENERGY BOARD**

## **Code of Conduct for Gas Marketers**

**Revised Restated  
Proposed October 15, 2010**

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## **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:

<b>Confirmation of Marketing Activities</b>		
<b>The channels that the Gas Marketer intends to use for the purpose of marketing gas as of the Effective Certification Date are the following:</b>	<b>Yes</b>	<b>No</b>
(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)		

<b>Certificate of Compliance</b>		
	<b>Yes</b>	<b>N/A</b>
<b>1. Salespersons</b>		
(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		
<b>2. Sales using a text-based contract</b>		
(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		
<b>3. Sales using the Internet</b>		
(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		

<b>Certificate of Compliance</b>		
	<b>Yes</b>	<b>N/A</b>
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		
<b>4. Verification</b>		
(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		
<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 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		

<b>Certificate of Compliance</b>		
	<b>Yes</b>	<b>N/A</b>
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		
<b>6. Contract Amendments</b>		
(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		
<b>7. Cancellations and Retractions</b>		
(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		
<b>8. Complaint Handling</b>		
(A) Adequate processes and controls are in place to ensure that consumer complaints on and after the Effective Certification Date alleging non-		

<b>Certificate of Compliance</b>		
	<b>Yes</b>	<b>N/A</b>
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.*

<b>Confirmation of Marketing Activities</b>		
<b>The channels that the Gas Marketer intends to use for the purpose of marketing gas 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) Gas Marketer's place of business		
(F) Internet		
(G) Telephone Renewals		
(H) Other (please specify below)		

<b>Certificate of Compliance</b>		
	<b>Yes</b>	<b>N/A</b>
<b>9. Salespersons</b>		
(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		
<b>10. Sales using a text-based contract</b>		
(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		
<b>11. Sales using the Internet</b>		
(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		

<b>Certificate of Compliance</b>		
	<b>Yes</b>	<b>N/A</b>
<b>12. Verification</b>		
(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		
<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 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		

<b>Certificate of Compliance</b>		
	<b>Yes</b>	<b>N/A</b>
place		
<b>14. Contract Amendments</b>		
(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		
<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 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		
<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 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.

**Attachment D**

**Revised Proposed Restated Code of Conduct for Gas Marketers  
(comparison version for information purposes only)**

*[see separate document attached]*



# ONTARIO ENERGY BOARD

## Code of Conduct for Gas Marketers

**Revised Restated**  
**Proposed October 15, 2010**

Deleted: August 12

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## 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;

Deleted: ¶

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

"Board" means the Ontario Energy Board;

Deleted: "authorized agent of the account holder" has the meaning given to it in the ECPA Regulation;¶  
¶

"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;

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"Effective ECPA Date" means January 1, 2011;

Deleted: the date on which Part II of the ECPA is proclaimed into force

"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,

Deleted: authorized agent for the

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.

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### 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:

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- (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.

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### 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.

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### 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.

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**Transfer requests where consumer enters into contract with another gas marketer**

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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:

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(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.

Deleted: ¶

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.

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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

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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.

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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:

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- (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

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- (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.

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### 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.

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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:

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- (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

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(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

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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

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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.

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## 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

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(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.

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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.

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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.

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- 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.

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- 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.

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#### 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

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

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#### Part I: Definitions and Interpretation

1.1 In this Certificate:

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“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;

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“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.

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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.

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**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)		

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**Certificate of Compliance**

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	Yes	N/A
<b>1. Salespersons</b>		
(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 <u>on and after the Effective Certification Date</u> , 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 <u>on and after the Effective Certification Date</u> 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 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 <u>on and after the Effective Certification Date</u>		
(B) The required disclosure statement <u>and price comparison</u> will be used <u>on and after the Effective Certification Date</u> in accordance with all applicable legal and regulatory requirements		
(C) Adequate processes and controls, designed to ensure that the text-based contracting process <u>on and after the Effective Certification Date</u> is conducted in accordance with all applicable legal and regulatory requirements, are in place		
<b>3. Sales using the Internet</b>		
(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		

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<b>Certificate of Compliance</b>		
	<b>Yes</b>	<b>N/A</b>
comply with all applicable legal and regulatory requirements and only offers, contracts and promotional material that so comply will be used <a href="#">on and after the Effective Certification Date</a>		
(C) The required disclosure statement will be used <a href="#">on and after the Effective Certification Date</a> in accordance with all applicable legal and regulatory requirements		
(D) Adequate processes and controls, designed to ensure that the internet contracting process <a href="#">on and after the Effective Certification Date</a> is conducted in accordance with all applicable legal and regulatory requirements, are in place		
<b>4. Verification</b>		
(A) No verification representative acting on behalf of the Gas Marketer will be remunerated <a href="#">on and after the Effective Certification Date</a> 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 <a href="#">on and after the Effective Certification Date</a> (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 <a href="#">on and after the Effective Certification Date</a> 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 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 <a href="#">and price comparison</a> will be used <a href="#">on and after the Effective Certification Date</a> 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		

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<b>Certificate of Compliance</b>		
	<b>Yes</b>	<b>N/A</b>
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 <a href="#">on and after the Effective Certification Date</a> (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 <a href="#">on and after the Effective Certification Date</a> is conducted 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 gas contract with a consumer <a href="#">on and after the Effective Certification Date</a> 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 <a href="#">on and after the Effective Certification Date</a> 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 <a href="#">on and after the Effective Certification Date</a> 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 <a href="#">on and after the Effective Certification Date</a> 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 <a href="#">on and after the Effective Certification Date</a> alleging non-		

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**Certificate of Compliance**

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	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.

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## APPENDIX B

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

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

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#### Part I: Definitions and Interpretation

##### 1.2 In this Certificate:

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“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;

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“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.

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#### 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.

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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.

<b>Confirmation of Marketing Activities</b>		
<b>The channels that the Gas Marketer intends to use for the purpose of marketing gas 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) Gas Marketer's place of business		
(F) Internet		
(G) Telephone Renewals		
(H) Other (please specify below)		

**Certificate of Compliance**

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	Yes	N/A
<b>9. Salespersons</b>		
(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		
<b>10. Sales using a text-based contract</b>		
(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 <a href="#">and price comparison</a> 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 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 <a href="#">and price comparison</a> 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		

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<b>Certificate of Compliance</b>		
	<b>Yes</b>	<b>N/A</b>
<b>12. Verification</b>		
(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		
<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 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 <a href="#">and price comparison</a> 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		

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<b>Certificate of Compliance</b>		
	<b>Yes</b>	<b>N/A</b>
place		
<b>14. Contract Amendments</b>		
(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		
<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 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		
<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 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.

**Attachment E**

**Revised Proposed Disclosure Statements**

*[see separate documents attached]*

**Attachment F**

**Proposed Price Comparison Templates**

*[see separate document attached]*

**Attachment G**

**Revised Proposed Verification Call Scripts**

*[see separate documents attached]*

**Attachment H**

**Revised Proposed Renewal/Extension Call Scripts**

*[see separate documents attached]*

## Attachment I

### Proposed Amendment to the Gas Distribution Access Rule

**Note: The text of the proposed amendments is set out in italics below, for ease of identification only.**

Section 4.3.7.4 of the Gas Distribution Access Rule is deleted and replaced with the following:

*4.3.7.4 A gas distributor shall not process an STR from a consumer's gas vendor unless the consumer's contract with the gas vendor:*

- (a) has been terminated due to the consumer's default;*
- (b) has been cancelled by the consumer; or*
- (c) has expired or will expire on or before the proposed transfer date.*