

On June 1, 2015 the Ontario Energy Board (OEB) released its report “Consumers Come First: A Report of the Ontario Energy Board on the Effectiveness of Part II of the *Energy Consumer Protection Act, 2010*.”

The Minister of Energy asked the OEB to review the *Energy Consumer Protection Act, 2010* (ECPA) and to report back, with any recommendations about possible changes. Minister Chiarelli underlined the Government’s commitment to doing all it can do to protect Ontario energy consumers in light of an evolving energy sector.

Background on energy retailers:

In today’s market, Ontario energy consumers have options in choosing their supplier. They can sign a contract with an energy retailer, or they can continue being supplied by their utility. Roughly 90 per cent of energy consumers choose to purchase their energy from their utility.

The price that most residential and small business consumers pay for their natural gas or electricity when they buy from their utility is regulated by the OEB. In the electricity sector, the utility price is called the Regulated Price Plan, or RPP, and for most consumers it takes the form of time-of-use prices. In the natural gas sector, the price charged by the province’s gas utilities, including the two largest, is based on the forecasted price for natural gas in the competitive market. The OEB does not allow utilities to make a profit on the sale of electricity or natural gas.

Energy retailers offer an alternative way for consumers to purchase electricity or natural gas. They offer various price structures, including long-term fixed rates, variable prices and tiered prices. Some offer energy from renewable or alternative sources. There are 13 active energy retailers in Ontario. Eleven of those are licensed for both electricity and gas. The other two are licensed for electricity only.

Background on the *Energy Consumer Protection Act, 2010*:

The ECPA came into effect on January 1, 2011. When the ECPA became law, the government stated the legislation would protect consumers from hidden costs, excessive cancellation fees and other unfair industry practices. The goal is to ensure consumers have the information they need to make the right decisions about electricity and natural gas contracts, and confidence that they’re protected from unfair business practices.

The ECPA provides residential and small business energy consumers with added protection in their dealings with energy retailers. The ECPA, along with associated regulations and rules established by the OEB, set out the obligations that energy retailers must comply with when they sell electricity or natural gas under contracts to low-volume (residential and small business) consumers.

These include requirements relating to how sales agents must identify themselves; documents that must be presented to consumers; information that has to be included in contracts; and the process that has to be followed for verifying and renewing contracts. Consumers who have signed a contract have a 10-day “cooling-off” period to reconsider their decision, and also have a number of cancellation rights available to them. Energy retailers are not allowed to engage in unfair business practices.

A detailed description of the ECPA, along with other useful information about energy retailers and the retail electricity and natural gas markets, can be found in the [online workbook](#) that was developed for the OEB's ECPA review consultation.

The OEB's Review:

The OEB's approach was broad and comprehensive. We looked at consumer experiences with energy retailers. We considered the OEB's experience with oversight of the retail energy sector as well as experience in other jurisdictions. We sought feedback and data from energy retailers, and asked other stakeholders for input. We looked at products offered by energy retailers and conditions in the retail energy market.

Giving a Voice to Consumers:

The OEB undertook its most extensive direct consumer consultation to date as part of its review. An innovative online workbook, focus groups and a telephone survey were used to learn about the experiences of consumers in Ontario's retail energy markets and get their thoughts on how effective the ECPA has been in protecting their interests. We commissioned Innovative Research Group Inc. (IRG) to help design, collect feedback and document this direct consumer consultation, and their report is available on our website. Through this process, we got direct feedback from more than 2,000 consumers.

The OEB's Assessment:

Our review indicates that:

- The ECPA has generally been effective in improving consumer protection in the retail energy markets, and is among the most extensive legislation of its kind in North America.
- There is strong support among stakeholders and consumers for the consumer protection measures contained in the ECPA. There is general agreement that it is headed in the right direction.

However, our review also indicates that problems remain. Highlights of what we learned include:

- Consumer understanding and awareness of the energy sector, retail energy markets and the ECPA is generally low, making it difficult for consumers to understand their choices and make valid price comparisons. The need for increased plain language in consumer-facing documents emerged as a common theme during the consultation process.
- The way electricity bills are presented makes it difficult for consumers to compare prices when considering whether to sign a retail electricity contract or remain with their utility.
- Roughly one-third of current residential and non-residential contract holders surveyed are unaware that they have a contract. Importantly, 40 per cent of "unaware contract holders" are consumers with a household income of less than \$40,000.
- A majority of residential consumers and more than 70 per cent of non-residential consumers surveyed who entered into contracts did so with the goal of saving money. However, our research suggests that savings are highly unlikely, at least for residential consumers, and that residential consumers with contracts have in fact paid more than consumers who bought energy from their utility.

- Most contracts do not pass the verification stage. While there are slightly different patterns for electricity and gas, almost 60 per cent of consumers who signed retail contracts that require verification change their mind and do not complete the verification process, choosing instead to remain with their utility. This could indicate that consumers feel pressured at the door, or have trouble absorbing the necessary information at the door.
- Door-to-door activities are a continuing concern. Our survey shows that consumers do not generally search out energy retailers. Based on data from energy retailers, in 2014 about 50 per cent of all retail electricity contracts and about 46 per cent of all retail natural gas contracts were sales transacted using door-to-door marketing. A significant proportion (38 to 49 per cent) of the residential unaware contract holders, former contract holders and non-contract holders surveyed say the experience of dealing with a sales agent at the door was worse than a typical retail interaction. The same is true of a third of non-residential non-contract holders. Of those who think it is worse, “aggressive sales tactics” was the top reason.
- Consumers value choice, but to varying degrees. The vast majority of consumers purchase their energy from their utility. Consumers differ in their views on choice. More than eight in 10 current contract holders surveyed like having the opportunity to enter into a retail energy contract if they want one.

Recommendations:

The OEB is recommending 14 new measures that will further enhance consumer protection in the retail energy markets. Some of the measures will enhance energy literacy and consumer awareness to help consumers better understand what they are buying and from whom. Other measures will address ongoing concerns, including a need for greater protection from unfair business practices at the door.

The recommended measures are listed here and described in more detail in the [full report](#):

- Ban door-to-door sales for residential consumers
- Sales agents must be employees of the company they represent
- Increase administrative penalties
- Eliminate auto-renewal of all retail contracts
- Extend cancellation from one to two billing cycles
- Increase the “cooling-off” period from 10 to 20 days
- Require verification of all retail contracts
- Introduce requirements regarding pricing practices/hedging
- Publish a “consumer beware” list
- Post prices and comparisons on an OEB-supervised website
- Make retail contracts, disclosures and scripts more consumer friendly
- Make retail contracts more visible on the bill
- Address the unique needs of low-income consumers
- Further consider an exemption for agricultural co-ops

Resources:

[Consumers Come First: A Report of the Ontario Energy Board on the Effectiveness of the Energy Consumer Protection Act, 2010.](#)

[Minister's Letter requesting the OEB to undertake a review of Part II of the Energy Consumer Protection Act, 2010.](#)

[ECPA Consumer Workbook.](#) *The Workbook is now closed but a non-active PDF version is available.*