

Ontario's Retail Energy Sector: Market Evolution, Market Data and Consumer Protection

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Overview

- Principal topics:
 - Origin of Ontario's energy markets
 - Ontario retail market activity
 - Consumer protection issues
 - Assessing the effectiveness of consumer protection
 - Value for consumers
- Looking at low volume consumers only
- Focus on residential consumers for this talk.
- Discussing data from IRG ECPA surveys, OEB staff summaries of supplier data, supplier RRR filings.

Origins of Ontario Electricity Market

- 1996 Macdonald report recommended competitive generation, retail competition.
- 1998-99 Market Design Committee recommended:
 - Pass the spot price to consumers.
 - Retail competition available to all consumers.
 - Consumer protection measures for small consumers; problems had arisen with gas marketing.
 - Costs of retail competition should not exceed benefits to consumers.
 - Protect consumers against fraudulent practices.

Electricity Market Evolution (2)

- 2002 electricity market design passed spot price to default consumers.
 - Retail competition enabled to allow consumers to avoid price volatility.
 - Hot, dry summer caused high demand, low supply.
 - Consumption, prices and bills were high, default consumers experienced price volatility - up.
- November 2002 price cap ended default price volatility.
- Since 2005, consumers pay regulated price (RPP) based on forecast of HOEP plus GA. Adjusted semi-annually.
- RPP is now predominantly time-of-use (TOU).

Default Electricity Price Trend

- 2009 through 2013, default RPP energy-only electricity price moved steadily upward.
 - Semi-annual adjustments mostly upwards
 - Increases often around 5-6%, max 12%.
 - Two decreases less than 2%
- Most Ontario generation costs are regulated or specified in long-term contracts. While HOEP and GA are individually variable, they move in opposite directions so the sum, which determines RPP, changes slowly.

Origins of Ontario Gas Market

- 1987 OEB required utilities to study costs so rates could be unbundled.
- 1990s agents, brokers & marketers aggregated small consumers and purchased gas for them.
 - Buy/sell arrangement, then ABC-T.
- OEB criticised marketing practices.
- OEB required utilities to provide default supply, encouraged competitive retail market.
- *OEB Act, 1998* required licensing of marketers
 - OEB requires adherence to Code of Conduct.

Default Gas Price Trend

- Default gas supply price (Enbridge, Union) varies with market price.
- 2006-2013 the default price varied from over 40 cents/m³ early 2006 to less than 10 cents mid-2012.
 - Quarterly increases as large as 35% (July 2008).
 - Quarterly decreases as large as 31% (April 2009).
 - 2/3 drop from Spring 2008 to Fall 2009.
- The default price seems quite volatile.

Consumer Protection Regulation

- 2002 amendments to *OEB Act, 1998* include ‘Energy Consumers’ Bill of Rights’ for low volume consumers and new *Consumer Protection* regulation:
 - Prohibit unfair practices and false/misleading advertising
 - Obligation to provide written copy of contract
 - Require consumer reaffirmation of contract
 - Mandate certain information in contract
- Consumer complaints persist 2002-2009.
 - CBC ‘Marketplace’ March, 2009 criticises door-to-door activity.
 - Private members’ bills introduced 2008, 2009.
- *ECPA 2010* introduced Dec., 2009, in force (with O.Reg. 389/10) Jan. 1, 2011.

ECPA Consumer Protection Provisions

- *Hidden contract costs and greater transparency for consumers:*
 - Mandatory OEB-approved disclosure statements & price comparison forms
 - Mandatory OEB-approved scripts for verification and renewal calls
- *Excessive cancellation fees and enhanced cancellation rights:*
 - New cancellation rights and cap on cancellation fees
 - Contracts void in certain cases with right to full refund
- *“Negative option” contract renewals:*
 - Auto-renewal only for gas contracts and only for 1 year
 - Auto-renewed contracts can be cancelled at any time without penalty
- *Protecting against unfair practices:*
 - Obligation on retailers/marketers to certify compliance
 - Mandatory training for agents and verification representatives
 - Telephone sales only for renewals
 - Verification representative pay not per contract verified
 - Clarity re: who can enter into contracts
 - New rules for internet transactions

Retail Market Activity Topics

- Market activity and share for suppliers
- Marketing approach
- Complaints to OEB
- Reaffirmation/Verification
- Cancellations
- Renewals

Retail Market Activity and Share

- Total low volume retail customers declined 2006-2013:
 - Electricity down 50%; gas down 60%.
- Major drop in enrolment rates after 2010.
 - To what extent are ECPA requirements a cause?
- Major drop in gas renewals after 2010.
 - To what extent are restrictions on auto-renewal a factor?
- Retail market share decline:
 - Electricity retail share 16% 2006, drops to 6.3% 2013.
 - Gas retail share 36% 2006, drops to 10.7% 2013.
- Gas decline may be driven in part by falling utility price.

Retail Marketing Approach 2010-2013

- Electricity:
 - Door-to-door dropped from 80% in 2010 Q1, to below 60% in 2010 Q2, below 50% in 2013.
 - Web sales jumped from 12% in 2010 Q1 to 30% in Q2, rose to over 40% in 2013.
 - Telesales generally under 10%.
- Gas:
 - Door-to-door highly variable, over 60% 2010 Q1, less than 40% Q2-4, decline from 43% to 27% 2012 Q1 to 2013 Q4.
 - Telesales drop from 25% 2010 Q1 below 10% after.
 - Web sales rise from 10% 2010 to 40% 2012 Q3 – Q4 2013.
- Shift from D2D to web sales possible result of ECPA.
- Telesales restricted to renewals 1 January 2011.

Complaints to OEB about Suppliers

- Complaints high 2008 to 2010 Q1, then drop sharply through 2010.
- Spike in complaints 2011 Q1 as ECPA comes into force.
- Complaints drop to declining trend Q2 2011.
- Complaints per year have stabilized:
 - around 800/yr for electricity in 2012, 2013;
 - Around 550/yr for gas since 2012 Q2.
- To what extent is the drop in complaints a result of ECPA compliance and fewer customers?

Some Post-ECPA Consumer Allegations

- Obtaining bill and e-mail information by misrepresentation then enrolling the consumer in an internet contract without the consumer's knowledge.
- Misrepresentations involving references to:
 - government or utility programs/initiatives;
 - media coverage;
 - ensuring that they are receiving rate increase protection;
 - need to sign up to get service;
 - eligibility for a discount.
- Failure to present business card and to wear ID badge
- Using a tablet at the door to initiate a web sale.
- Creating a false account with a utility and submitting a contract for that account.

Results of Signing Contracts: Electricity

- Increasing % of signed contracts are cancelled within 10 days.
 - 4% 2010, 7% 2011, 18% 2013.
- Comparing RRR data on contracts flowing with supplier data on contracts signed suggests that less than 40% of signed contracts flow.
- Over 30% of verification calls terminated where required by the OEB script.
 - Over 20% of verification calls are unsuccessful for other reasons.
- Where reaffirmation/verification attempted, only 34% to 42% succeed.

Results of Signing Contracts: Gas

- Increasing % of signed contracts are cancelled within 10 days.
 - 3% 2010, 4% 2011, 17% 2013.
- Comparing RRR data on contracts flowing with supplier data on contracts signed suggests that less than 40% of signed contracts flow 2012, 2013.
 - Less than 20% 2010, almost 50% 2011.
- About 40% of verification calls terminated because of OEB script.
 - Over 20% of verification calls are unsuccessful for other reasons.
- Where reaffirmation/verification attempted, only 37% to 43% succeed

Results of Renewal Attempts

- Electricity:
 - Successful renewals as a % of renewal packages sent has risen steadily to 47% in 2013
 - Calls terminated where required by the OEB script dropped from 10% in 2011 to <5% 2013.
 - Unsuccessful renewals (other than script) fell from 97% 2009 to 47% 2013.
- Gas:
 - Successful renewals steady around 40% 2009-2013.
 - Calls terminated where required by the OEB script 35% 2011, 40% 2013.
 - Unsuccessful renewals (other than script) fell from 63% 2009 to 19% 2013.
 - Auto-renewals down from 55% 2009 to 25% 2013.

Recent Retail Contract Types

- Both gas and electricity suppliers sell some similar products:
 - Most common: fixed price/(kWh or m³), 5 years
 - Some also sell fewer years: 3, 2, 1.
 - Variable price: market price (HOEP or Dawn) plus x
 - Blend of fixed price and market price plus (often half based on each).
 - Flat rate monthly amounts.
- All electricity consumers pay the GA.

Retail Business Model

- Suppliers hedging, buying as they sell.
- Suppliers not speculating in future price – they are offering specific price products that differ from the RPP.

Observations on Retail Market

- Market structure seems competitive – over half dozen participants, gas and electric.
- Default electricity prices are relatively stable.
- Retail electricity contracts increase price volatility because of variable GA.
- Default gas prices are variable.
- Retail gas contracts reduce price volatility.

Retail Experience Elsewhere

- Retail competition is allowed in a number of jurisdictions: Canada, US, UK.
- We looked at the experience in Alberta, Texas, Pa., UK.
- Underlying markets differ in important ways.
 - E.g. Alberta gas and electricity default is market price.
 - Pennsylvania default electricity supply price based on power purchase portfolio by utility.
 - Texas specifies a ‘price to beat’ credit if customer chooses supplier.
 - UK competitors are mostly affiliates of utilities.
- Consumers tend to stick with utility; ‘switching rates’ generally <30%.
- Studies tend to look at prices – does competition reduce prices?

Consumer Protection Elsewhere

- All jurisdictions have some legislation or regulations for retail consumer protection.
 - Some general consumer protection provisions.
 - Some specific energy provisions.
- Most regulations prohibit misrepresentation and unfair practices.
- Most jurisdictions licence suppliers and require presentation of certain information to customer.
- Some regulations allow rescission of a contract obtained through an unfair practice.
- Studies of the effectiveness of consumer protection are rare.

How Does Ontario Compare?

- Our default electricity offerings are more regulated and more stable than the default offerings in some jurisdictions that have retail competition.
- The share of consumers choosing retail electricity contracts is lower in Ontario than elsewhere.
- The ECPA Part II is among the more extensive energy consumer protection regimes.
 - But many features of ECPA are found elsewhere.

Evaluation

- Little empirical evaluation of the success of competition elsewhere in terms of benefits to consumers.
 - Some studies look at ‘switching rates’.
 - This is not a measure of consumer benefit.
 - Some assess whether competition has reduced prices.
 - Results often inconclusive.
- Little existing evaluation of the effectiveness of consumer protection regimes elsewhere.
- This OEB review of the ECPA Part II appears to be more comprehensive than others.

Assessing the Effectiveness of Consumer Protection

- Four approaches in principle:
 1. Measure extent to which the ECPA achieved legislative goals: reduction in certain behaviour.
 2. Measure compliance with formal regulatory requirements.
 3. Measure consumer satisfaction with supplier dealings.
 4. Objective evaluation of economics of retail offerings.

1. Achievement of Legislative Goals

- Legislative goals (MOE news release April 2010):
 - Protect consumers from hidden costs, excessive cancellation fees and other unfair industry practices;
 - Provide greater fairness and transparency for consumers through rate comparisons, plain language disclosure in multiple languages, enhanced rights to cancel contracts and new rules for energy retailers and their employees;
 - Ensure that consumers have the information they need to make the right decisions about electricity and natural gas contracts, and confidence that they're protected by fair business practices.

1. Achieve Goals (2)

- ECPA and regulations reflect many of these goals.
- No data on **actual** extent too which goals achieved.
- Indicators (not perfect) include:
 - Consumer complaints to OEB include non-compliance with various ECPA provisions.
 - No copy of contract, verification, unfair practices, misrepresentation of identity, violate code of conducts, etc.
 - Consumer survey:
 - 1/3 of current and former contract holders not even ‘somewhat familiar’ with retail contracts.
 - 30% of current contract holders are unaware they have a contract.
 - Concerns about aggressive sales practices and sense of dishonesty/mistrust.
 - Majority of current contract holders think they are saving money when that seems unlikely.
 - Supplier data to OEB ECPA Review potentially suggest ongoing problems:
 - Verification calls terminated by OEB script >30%.
 - Some terminations potentially reflect problematic behaviour in the sale.

2. Compliance with Regulatory Requirements

- Look to specific provisions in the ECPA and regulations, use existing data on violations.
- Available data are essentially the same data used as indicators of the achievement of goals in the first approach.
- Ongoing OEB enforcement actions indicate compliance problems.

3. Consumer Satisfaction with Supplier

- Supplier data:
 - >17% of signed contracts cancelled 10 days;
 - Only 40% of signed contracts appear to flow;
 - Contract renewal rates only 47% electricity, 60% gas (including gas auto-renewals);
- Do these suggest not very satisfied customers?

3. Consumer Satisfaction (2)

- Consumer survey data on satisfaction.
 - Over 2/3 of current contract holders satisfied E&G
 - Majority of customers want to save money, avoid price increase; they think they **are** saving money.
 - 30% E and 26% G say **not** saving money.
 - 30% were not aware that they were on retail contract.
 - Over 60% of former contract holders E&G were dissatisfied.
 - Most common reason for cancelling/not renewing – high cost.
 - 27% were not aware that they had been on retail contract.
- Consumer survey data on level of awareness.
 - 2/3 of current and former contract holders say they are at least somewhat familiar with the retail contract option.

4. Economic Merit Retail Offerings

- Compare cost for various contracts with default offerings.
- Electricity RPP versus contracts
 - Fixed price/kWh 3-year, 5-year
 - HOEP plus surcharge/kWh 3-yr, 5-yr
 - Flat monthly charge, recent
- Gas default supply versus contracts
 - Fixed price/m³ 5-year, 3-year.

Electricity Contracts vs. RPP

Comparing 5-year Contract and RPP Costs 2009-2013

	Contract + GA	RPP	Increase Contract Bill vs RPP Bill	RPP Peak User	Contract Bill vs Peak User Bill
Jan 2009 bill (\$)	67.78	43.52	56%	60.16	13%
Dec. 2013 bill (\$)	97.75	71.14	37%	90.88	8%
Increase 2009-13 (%)	44%	63%		51%	
5-year cost (\$)	5,827	3,389	72%	4,430	32%
Contract premium (\$)		2,438		1,396	
2009 RPP + 26% (\$)		54.84		75.80	

Comparing energy-only costs for 800 kWh/mo customer

Contract price \$0.0795/kWh +GA, from Energyshop Nov. 2008

RPP cost weighted by TOU consumption: 64% off, 18% mid, 18% peak.

RPP Peak User assumes weighting of 20% off, 20% mid, 60% peak.

RPP 100% peak user 5-year cost is \$5,077.

Electricity Contracts vs RPP (2)

- Contract price plus GA is well above RPP energy cost in every month. (Slide 35)
 - Over 5 years contract costs 72% (\$2,438) more.
 - Past 10-year price history would not justify this premium (26% increase over 5 years).
- Even a peak user (20% off/20% mid/60% peak) pays 32% (\$1,396) more for contract.
- 3-year contracts little better. (next slide)

Comparing 3-year Contracts and RPP Costs 2010-2013

	Contract + GA	RPP	Increase Contract vs RPP	RPP Peak User	Increase Contract vs RPP Peak User
3-yr 2010-2012					
Jan 2010 contract price (\$)	0.0699+GA				
Jan 2010 bill (\$)	78.66	47.44	66%	64.48	22%
Dec. 2012 bill (\$)	87.49	63.50	38%	82.56	6%
Increase 2009-2013 (%)	11%	34%		28%	
3-year cost (\$)	3,155	2,047	54%	2,652	19%
Contract 3-yr premium (\$)		1,107		502	
3-yr 2011-2013					
Jan 2011 contract price (\$)	0.060+GA				
Jan 2011 bill (\$)	78.19	52.03	50%	68.64	14%
Dec. 2013 bill (\$)	82.15	71.14	15%	90.88	-10%
Increase 2011-2013 (%)	5%	37%		32%	
3-year cost (\$)	3,166	2,235	42%	2,877	10%
Contract 3-yr premium (\$)		931		289	

Energy-only costs for 800 kWh/mo customer

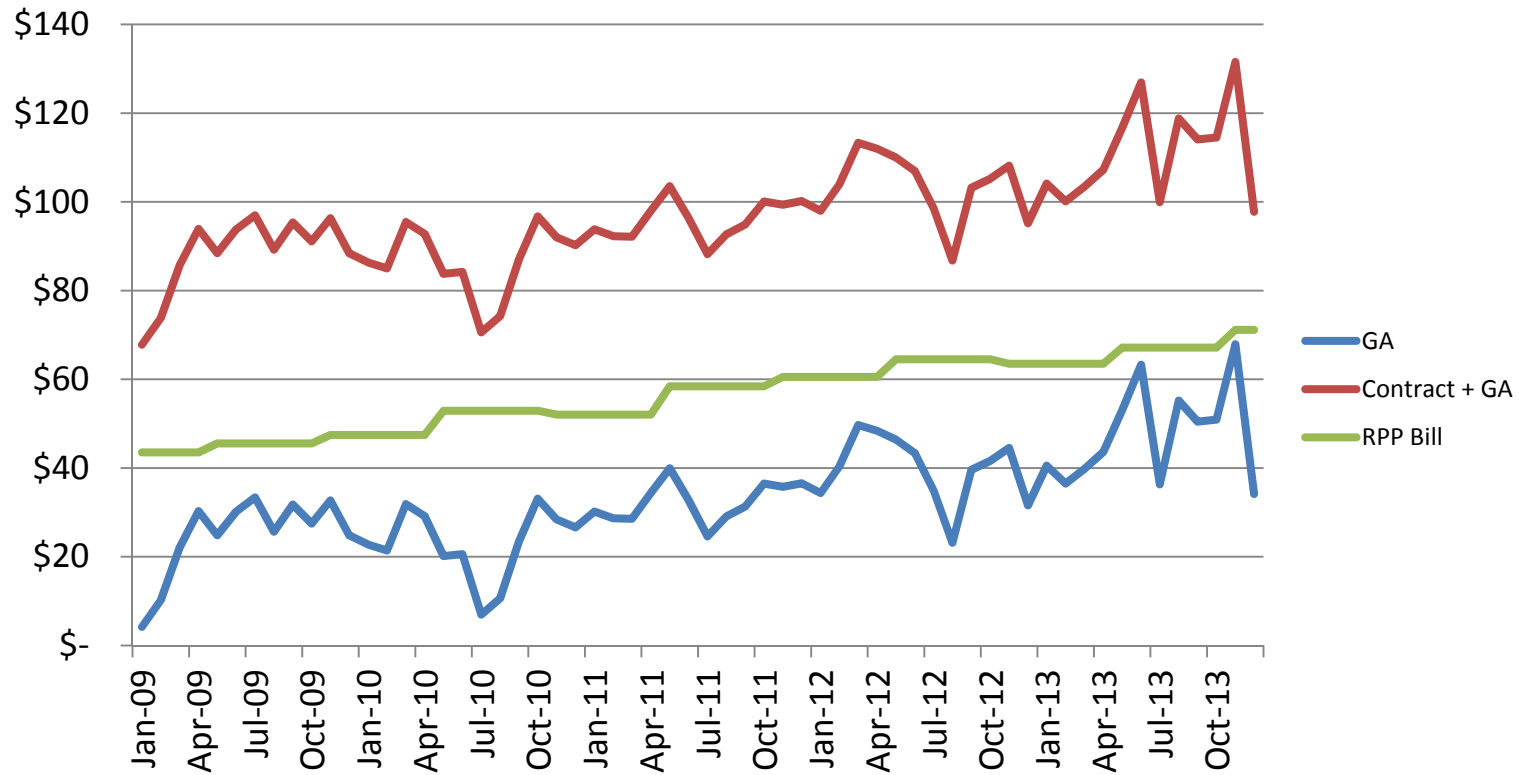
RPP cost weighted by TOU consumption: 64% off, 18% mid, 18% peak.

RPP Peak User assumes weighting of 20% off, 20% mid, 60% peak.

100% peak user 3-year RPP cost: 2010-12 is \$3030, in 2011-13 is \$3,278.

Variability of Monthly Electricity Bill

2009-2013: RPP vs Fixed Price Contract + GA



5-year Gas Contract and Default Costs 2009-2013

	Marketer Contract Price (c/m ³)	Average Default Price (c/m ³)	Premium 5- year Contract (\$)	% Increase Contract vs Default
Default provider				
Enbridge 2009-2013	37.40	13.33	2,643	181%
Union 2009-2013	37.40	13.47	3,661	178%

Comparing energy-only costs, average consumer.

Contract price is the average best price any supplier in November, December, 2008.

Premium based on monthly consumption: Enbridge 255 m³; Union 183 m³.

3-year Gas Contract and Default Costs 2009-2013

	Marketer			
Default supplier	Contract Price (c/m ³)	Average Default Price (c/m ³)	Premium for 3-year Contract (\$)	% Increase Contract vs Default
Enbridge 2009-2011	37.40	15.63	\$1,998	139%
Union 2009-2011	37.40	15.43	\$1,447	142%
Enbridge 2011-2013	20.95	10.94	\$919	92%
Union 2011-2013	20.95	11.23	\$641	87%

Comparing costs, average consumer.

Contract cost is the average best price in November, December, 2008, 2010.

Premium based on monthly consumption: Enbridge 255 m³; Union 183 m³.

Gas Contracts vs Default Supply

- Gas contracts mostly 5-year fixed price.
- 2008 Energyshop best price is 37.4 cents/m³ for contract flowing Jan 2009.
- Average default price 2009-2013 <13.5 cents.
- 5-year contract costs ~ 180% more than default.
 - 3-year contracts starting 2009 cost 140% more.
 - 3-year contracts starting 2011 cost 90% more.

Contracts vs. Default cont'd

- Market price of gas plunged from summer 2008 to summer 2009.
 - Those who signed in late 2008 paid heavily.
 - But even by 2011 when the price had settled down, the premium for a contract was large.
- Retail gas contracts reduce price variability for consumers but large premium.
- Retail electricity contracts increase price variability for consumers and large premium.
- Auditor General 2011 found electricity contract prices high, benefits small.

Observations on Economic Merit

- Retail contracts seem expensive relative to default supply.
- Survey shows consumers want to save money, think they are saving money but this analysis suggests savings unlikely.
- What assumptions about future prices or customer load shape (% peak use) make electricity contracts financially beneficial?
- What assumptions about future prices make gas contracts financially beneficial?

Conclusion

- The ECPA Part II Review has gathered extensive data from various sources.
 - IRG and OEB staff summaries are posted on the OEB website.
- Talks today present some analysis and interpretation.
- We look forward to comments and suggested implications from stakeholders.