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December 15, 2014

To: All Registered Participants in Consultation Process EB-2014-0158
All Licensed Electricity Retailers
All Licensed Natural Gas Marketers
All Licensed Electricity Distributors
All Natural Gas Distributors
All Other Interested Parties

Re: Consultation on the Effectiveness of Part II of the *Energy Consumer Protection Act, 2010*
Questions for Supplementary Written Comments
Board File No.: EB-2014-0158

In its [November 25, 2014](#) letter, the Board indicated that stakeholders would have an opportunity to submit supplementary written comments on presentations made and issues discussed during the stakeholder forum that was held on December 8, 2014. As contemplated in that letter and during the stakeholder conference, the Board is issuing this letter to provide guidance to stakeholders in relation to the provision of those comments.

Questions for Stakeholder Comment

While the Board invites stakeholders to provide such comments as they consider appropriate, the Board would appreciate input on the questions set out in Appendix A to this letter in particular. Among other things, as noted in the Appendix the Board invites stakeholders to provide price analyses or comparisons for consideration by the Board in addition to those presented at the stakeholder forum.

Some of the broader questions set out in Appendix A are substantially similar to questions on which the Board invited comment in its [October 23, 2014](#) letter, and the Board acknowledges that some stakeholders have already provided comments on some or all of them. The Board is now providing more detailed and focussed guidance in light of the results of the consumer research conducted by Innovative Research Group, the analyses prepared by Professor Don Dewees and stakeholder input received to date through written comments and the stakeholder forum. The Board has

posted a revised version of Professor Dewees' presentation, to which one correction has been made on slide 36, and will post the additional information requested of Innovative Research Group during the forum once it has been received by the Board.

As indicated to stakeholders on December 5, 2014, the deadline for the provision of supplementary written comments has been extended to **January 12, 2015**. Written comments should be filed in accordance with the filing instructions set out in Appendix B of the Board's October 23, 2014 letter.

Cost Awards

As contemplated in the Board's November 25, 2014 letter, cost awards will be available to eligible stakeholders in relation to the provision of supplementary written comments. Cost awards will be available to a maximum of **40** hours.

All material related to this consultation will be posted on the Board's website at www.ontarioenergyboard.ca and will also be available for public inspection at the Board's office during normal business hours.

If you have any questions regarding this consultation, please contact Martine Band at martine.band@ontarioenergyboard.ca or at 416-440-8117. The Board's toll free number is 1-888-632-6273.

Yours truly,

Original Signed By

Kirsten Walli
Board Secretary

Appendices: Appendix A – Questions for Supplementary Written Comment

Appendix A

Energy Consumer Protection Act, 2010 Review **EB-2014-0158**

Questions for Supplementary Written Comment

Note: To the extent that you have already provided input on some of the questions in your written comments submitted in November, it would be of assistance to the Board if you included a reference to those earlier comments in your supplementary written comments.

- 1. What standard(s) should the Board use to measure the effectiveness of Part II of the *Energy Consumer Protection Act, 2010* (the “ECPA”)?**
 - a. Which standard(s) proposed by Professor Dewees are most appropriate?
 - b. Are there other standards that the Board should consider?

- 2. What features of the broader market evolution or market structure should the Board consider in its assessment of Part II of the ECPA and in making its recommendations to the Minister?**
 - a. Do you agree with the analyses conducted by Professor Dewees and Mr. Sharp regarding the economics of electricity and gas contracts? If so, why? If not, why not?
 - b. Are there any other price analyses or comparisons that the Board should consider in addition to those provided by Professor Dewees and Mr. Sharp? If so, please provide.
 - c. What is the “value proposition”, if any, for retail electricity contracts in the current Ontario market? Is the value proposition different for non-residential consumers than it is for residential consumers?
 - d. What is the “value proposition”, if any, for retail natural gas contracts in the current Ontario market? Is the value proposition different for non-residential consumers than it is for residential consumers?
 - e. Should the Board look at natural gas contracts differently than electricity contracts? If so, why and in what respect(s)?

3. What guidance should the Board take from the qualitative and quantitative findings of the consumer research undertaken by Innovative Research Group in assessing the effectiveness of the ECPA and in making its recommendations to the Minister?

Note: To the extent that you believe that the findings are indicative of an issue that needs to be addressed, please identify options for how the issue could be addressed in your responses to question 4. Please indicate in those responses the finding(s) that each option is designed to address.

Key consumer research findings include the following in relation to residential consumers:

- a material proportion of current and former contract holders are unaware that they are or were enrolled in a retail electricity or natural gas contract
- a majority of current contract holders (a) identified the primary reason for entering into a retail electricity or natural gas contract as being to save money; and (b) believe that they are saving money under their contracts
- a material proportion of former contract holders chose to cancel or not renew their contracts due to the high cost
- the value that some consumers attach to “choice”, that is, the opportunity to enter into an electricity or natural gas contract if they want one
- differences between contract holders and non-contract holders with respect to indicia such as household income, impact of energy bills on household finances, financial knowledge, education levels, and cognitive self-assessment
- a material proportion of consumers found their door-to-door sales experience with a retailer or marketer to be worse than their sales experience with providers of other goods or services

4. What recommendations should the Board consider making in relation to the current legal and regulatory regime applicable to retailers and marketers?

Stakeholders should not limit themselves to commenting on the potential changes listed below, and should propose other consumer protection measures for consideration by the Board in light of the analyses conducted by Professor Dewees, the consumer research findings of Innovative Research Group and input provided by stakeholders. Please be specific in relation to any change that you propose, identify in each case whether the proposed change relates to one or both of the commodities and to residential consumers, non-residential consumers or both, and discuss the risks or benefits of making or not making the proposed change at this time.

Potential Changes to Enhance Consumer Understanding and Awareness:

- require that retailers and marketers post contract prices and other contract details on a website overseen by the Board
- enhance the price comparison template, disclosure statement, verification scripts and/or renewal scripts
- require all new retail energy contracts to be billed by a means other than distributor-consolidated billing, or implement alternative requirements to ensure greater awareness of the fact that a consumer has been enrolled in a retail energy contract
- require that retail energy contracts be in a standard Board-approved form and contain Board-approved provisions dealing with issues of key concern to consumers
- enhance oversight or verification in respect of retail energy contracts that claim that the energy provided has or is associated with certain environmental attributes

Potential Changes to Enhance Consumer Protection:

- require verification of all internet contracts or a subset of internet contracts (such as contracts entered into over the internet that were preceded by any in-person contact by the retailer or marketer)

- prohibit the use of gift cards or similar inducements to enter into a retail energy contract
- require that the price charged by a retailer or marketer be determined in accordance with specific requirements (this is contemplated in section 9 of the ECPA in relation to electricity retailers)
- prohibit the automatic renewal of retail natural gas contracts
- prohibit door-to-door sales, or implement additional consumer protection measures in respect of the door-to-door and “friends and family” sales channels

Other Potential Changes:

- changes to provide greater coordination and consistency between the rules governing retail energy contracts and the rules governing other energy or energy-related products and services that are not captured by Part II of the ECPA (for example, hot water tank rentals)
- changes to the enforcement provisions governing contraventions of Part II of the ECPA
- exempting certain types of retailers and marketers (such as co-ops) from Part II of the ECPA in whole or in part, with or without conditions