

ADDENDUM TO THE CODE OF CONDUCT
FINANCIAL TRANSACTIONS, POST-SERVICE RESTRICTIONS, AND
PROCEEDINGS

SECTION 1: INTRODUCTION

Section 1.1 Application of the Addendum to the Code of Conduct (the "Code")

- 1.1.1 The OEB has a broad mandate to act in the public interest in regulating the electricity and gas industries in Ontario. It is important that Members and employees maintain high standards of honesty, integrity and impartiality. They must be constantly aware of the need to avoid situations which might result in either actual or apparent misconduct.
- 1.1.2 Members and employees shall at all times abide by the requirements set forth in this Code. It shall be a term and condition of each Member's appointment and each employee's employment that he or she is required to comply with this Code. Each Member and employee must sign a declaration upon the commencement of their appointment or employment that he or she is in compliance with the Code. Furthermore, each Member and employee must sign a declaration each year at a time determined by the Management Committee that he or she remains in compliance with this Code.

Section 1.2 Exemptions

- 1.2.1 Any person who believes that any requirement of this Code will result in undue hardship in a particular case may apply for an exemption.
- 1.2.2 No exemptions from this Code shall be permitted except with the written consent of the Chief Operating Officer (in the case of employees, other than the Chief Operating Officer), the Chair (in the case of the Chief Operating Officer and Members, other than the Chair) or a Vice-Chair (in the case of the Chair).
- 1.2.3 Exemptions from this Code may be permitted where the obligations are not, in the opinion of the person granting the exemption, appropriate in the circumstances.
- 1.2.4 All exemptions granted by the Chair, a Vice-Chair or the Chief Operating Officer shall be reported to and be subject to any contrary decision of the Management Committee.

Section 1.3 Definitions

- 1.3.1 For the purposes of this Code:

"child" means a person whom a parent has demonstrated a settled intention to treat as a child of his or her family, except under an arrangement where the child is placed for valuable consideration in a foster home by a person having lawful custody (and children has a corresponding meaning);

"spouse" means either of two persons who:

- (a) are married to each other;
- (b) have together entered into a marriage that is voidable or void, in good faith on the part of a person relying on this clause to assert any right; or
- (c) live together in a conjugal relationship outside of marriage.

Section 1.4 Members of the Market Surveillance Panel

1.4.1 The term "Members" in this Code includes the members of the Market Surveillance Panel of the OEB.

1.4.2 As may be directed by the Chair, Section 1 and sections 2.1 to 2.4 (inclusive) of Section 2 of this Code apply to the members of Market Surveillance Panel. The application of Section 1 and sections 2.1 to 2.4 (inclusive) of Section 2 of this Code is in addition to, and not in lieu of, the provisions of sections 2.1.4 and 2.3.2 of By-law #3 of the OEB.

SECTION 2: REQUIREMENTS

Section 2.1 Avoidance of Breaches of this Code and Disclosure of any Breaches

2.1.1 Each Member and employee shall endeavour to avoid actual or apparent breaches of this Code and shall immediately report in writing any actual or apparent breaches of this Code.

2.1.2 Members and employees must use the OEB's Declaration Form to report their actual or apparent breaches of the Code.

2.1.3 All declaration forms must be submitted to the Executive Assistant, People, Culture & Business Solutions (Human Resources). For employees, the declaration form will then be forwarded to legal counsel and the Chief Operating Officer. For the Chief Operating Officer and Members other than the Chair, the declaration will be forwarded to legal counsel and the Chair. For the Chair, the declaration form will be forwarded to legal counsel and a Vice-Chair.

2.1.4 In determining how to deal with an actual or apparent breach, all of the circumstances of the case, including the actual state of knowledge, the bona fides of the person involved and the materiality of the breach, shall be considered.

- 2.1.5 If a situation in the nature of that described in section 2.2.3 is found to exist, options for the resolution of the situation could include, but are not limited to, divestment of the asset by selling the asset in an arm's length transaction or by the creation of a blind trust for the asset. If a blind trust is used, the trust must not leave in the hands of the Member or employee any power of management or decision-making authority over the asset placed in the trust. It will be the responsibility of the Member or employee to provide the OEB with evidence that the blind trust has terms and conditions that meet the aforementioned criteria and prove that the Member or employee has divested himself or herself of the asset. The trustee of the blind trust may not be the spouse, parent, child, or sibling of the Member or employee.

Section 2.2 Rules Regarding Financial Interests

- 2.2.1 No Member or employee shall accept the services of a person or an energy-related affiliate of a person whose conduct, rates, or revenues are regulated by the OEB on terms that he or she knows to be more favourable than those generally available from the person.
- 2.2.2 No Member or employee shall hold office in or be a director of a corporation or an energy-related affiliate of a corporation whose conduct, rates, or revenues are regulated by the OEB.
- 2.2.3 No Member or employee shall have a direct or indirect financial interest in a person or an energy-related affiliate of a person whose conduct, rates, or revenues are regulated by the OEB.

Section 2.3 Interpretation

- 2.3.1 For the purposes of section 2.2.3:
- (a) a Member or employee is deemed to have a direct or indirect financial interest in a person or an energy-related affiliate of a person whose conduct, rates, or revenues are regulated by the OEB if that Member or employee's spouse or dependent child has a direct or indirect financial interest in such a person or the energy-related affiliate of such a person;
 - (b) the following interests shall not be considered to be a direct or indirect financial interest:
 - (i) a financial interest in a mutual fund which has an interest in a person or an energy-related affiliate of a person whose conduct, rates, or revenues are regulated by the OEB;
 - (ii) a financial interest in an exchange traded fund (ETF) which has an interest in a person or an energy-related affiliate of a person whose conduct, rates, or revenues are regulated by the OEB; and

- (iii) membership in a pension plan as defined in the *Pension Benefits Act* related to the Member or employee's prior employment by a person or an energy-related affiliate of a person whose conduct, rates, or revenues are regulated by the OEB;
- (c) the following persons are considered to be persons whose conduct, rates, or revenues are regulated by the OEB:
 - (i) gas distributors;
 - (ii) gas transmitters;
 - (iii) gas storage companies;
 - (iv) gas marketers;
 - (v) electricity distributors;
 - (vi) electricity transmitters;
 - (vii) electricity generators;
 - (viii) electricity storage providers;
 - (ix) electricity retailers; and
 - (x) electricity unit sub-meter providers;
- (d) persons who are licensed solely as electricity wholesalers and not for any other purpose are not considered to be persons whose conduct, rates, or revenues are regulated by the OEB; and
- (e) affiliates of persons whose conduct, rates, or revenues are regulated by the OEB do not include any level of Canadian government, i.e., federal, provincial, or municipal governments.

Section 2.4 Disciplinary Action and Appeals

- 2.4.1 The failure to comply with any of the provisions of this Code by a Member or employee without an exemption may be cause for disciplinary or other appropriate action, including termination of his or her employment or, in the case of a Member, a recommendation of termination of his or her appointment.
- 2.4.2 Any Member or employee directly affected by any such action shall be entitled to a hearing and review thereof by the OEB or any person or persons designated by the OEB for such purposes.

Section 2.5 Post-Service Restrictions

- 2.5.1 Except with the prior written authorization of the Chair, none of the persons described below in this section shall deal with the OEB, or any Member or employee on behalf of any person, whether in the course of an application, a proceeding, a policy initiative, or informally, during the period set out below commencing on the date that the person ceases to be a full-time Member or employee:

- (a) in the case of a former full-time Member or Chief Operating Officer, one year;
- (b) in the case of a former vice president, director, manager, general counsel, associate general counsel, or Board Secretary, six months; and
- (c) in the case of a former lawyer who was employed by the OEB for more than two years, three months.

SECTION 3: PROCEEDINGS

Section 3.1 General Rule

3.1.1 No Member shall participate in a proceeding if:

- (a) in respect of such proceeding he or she has a personal interest which is, or could reasonably be perceived to be, incompatible with an unbiased exercise of his or her judgment;
- (b) for any other reason he or she is of the opinion that he or she would be unable to render an impartial decision; or
- (c) his or her continuing or prior associations or relationships (including family and other close personal relationships) would reasonably be perceived as not enabling him or her to render an impartial decision in respect of such proceeding.

3.1.2 For the purposes of Section 3, a proceeding does not include rule-making or code-making or any other process for the development of general policy by the OEB.

Section 3.2 Rules Relating to Relationship of Member with Party to Proceeding

3.2.1 Without limiting the generality of section 3.1,

- (a) no Member shall participate in a proceeding if such Member has any material financial interest in, or continuing material relationship with, or has within the past twelve months had a material relationship with, a party to such proceeding;
- (b) no Member shall participate in a proceeding if any associate of such Member has a material financial interest in, or continuing material relationship with, or has within the past twelve months had a material relationship with, a party to such proceeding; and
- (c) no Member shall participate in a proceeding if such Member has, within the past twelve months, had a long-standing professional relationship with a party to such proceeding.

3.2.2 For the purposes of section 3.2.1(a) and (b), a material financial interest shall include any type of economic interest that is material to the Member or his or her associate, as applicable, but for greater certainty shall be deemed not to include a

portfolio investment of a value not in excess of \$10,000 that does not constitute more than 1 percent of a Member's net worth.

- 3.2.3 For the purposes of section 3.2.1(a) and (b), a material relationship shall include any type of relationship that is material to the Member or his or her associate, as applicable, including that of a director, officer, employee, partner, adviser or consultant.

Section 3.3 Rules Relating to Relationship of Member with Person Representing Party to Proceeding

3.3.1 Without limiting the generality of section 3.1,

- (a) no Member shall participate in a proceeding if such Member has any material financial participation in, or continuing material relationship with, any individual, firm or company representing, or otherwise associated with, a party to such proceeding;
- (b) no Member shall participate in a proceeding if such Member has, within the past twelve months, had a material relationship with any individual, firm or company representing, or otherwise associated with, a party to such proceeding; and
- (c) no Member shall participate in a proceeding if the firm or company with which such Member was associated immediately prior to his or her appointment as a Member was involved to a substantial degree in the particular matter before the OEB in such proceeding while such Member was associated with such firm or company.

3.3.2 For the purposes of section 3.3.1(a), material financial participation means a form of profit participation and excludes, for greater certainty, a fixed interest such as a pension or the provision of office premises.

3.3.3 For the purposes of section 3.3.1(a) and (b) above, a material relationship shall not include occasional consultations of an informal nature with directors, officers, employees, partners or associates of a firm, company or other person.

Section 3.4 Procedure

3.4.1 In connection with any proceeding in which they are asked to participate, Members, other than the Chair, shall disclose all continuing and prior interests, participations and relationships that could potentially give rise to a conflict of interest to the Chair, and the Chair shall make similar disclosure to a Vice-Chair.

3.4.2 Notwithstanding sections 3.1 through 3.3, the Chair shall be entitled to determine whether or not any other Member shall participate in a proceeding and a Vice-Chair shall be entitled to make such a determination in respect of the Chair.

- 3.4.3 Any determination under section 3.4.2 shall be final and binding for all purposes of this Code.
- 3.4.4 Members shall not request any party to a proceeding to waive any of the provisions of this Code or to consent to the participation of any Member in a proceeding if such participation would be contrary to this Code.