

October 21, 2015

Submitted by email to: [boardsec@ontarioenergyboard.ca](mailto:boardsec@ontarioenergyboard.ca)

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27th Floor  
Toronto, ON M4P 1E4

Dear Ms. Walli:

**RE: PROPOSED AMENDMENTS TO THE ELECTRICITY RETAILER CODE OF CONDUCT, THE CODE OF CONDUCT FOR GAS MARKETERS, THE RETAIL SETTLEMENT CODE AND THE GAS DISTRIBUTION ACCESS RULE OEB FILE NO.: EB-2015-0268**

Just Energy Ontario L.P. ("Just Energy") has assessed the content and the impact of the Ontario Energy Board's ("Board's") proposed amendments to the Electricity Retailer Code of Conduct, the Code of Conduct for Gas Marketers, the Retail Settlement Code ("RSC") and the Gas Distribution Access Rule ("GDAR"). Just Energy is supportive of the Board's intended purpose, as specified in the Board issued Notice of Proposal to Amend a Code and to Amend a Rule ("Notice of Proposal"), but has a number of concerns regarding the necessity and fairness of some of these proposed changes as well as the timing for implementation of these changes.

Just Energy submits that the Board's proposals for the creation of new documents and proposed amendments to existing documents to be issued in the near future for comment are premature as the proposed *Strengthening Consumer Protection and Electricity System Oversight Act, 2015* ("Bill 112") has not yet passed. More specifically, the proposal to amend the Electricity Code of Conduct and the Code of Conduct for Gas Marketers to include a ban on door-to-door sales and verification call requirements for internet contracts as well as the cover letter, "tip sheet", Disclosure Statements, Price Comparison Forms and verification scripts are untimely.

With respect to the Board's proposed cover letter and plain language contract headings, Just Energy questions the impetus behind these two proposals. Our read of the Notice of Proposal is that the cover letter and plain language contract headings are being proposed as a result of shortcomings on the part of energy suppliers which we strongly disagree with. The proposed cover letter will place the onerous responsibility of consumer education solely on the shoulders of suppliers. There are already a number of Board required instruments suppliers must manage, explain and provide to consumers during the sales process.

Today, suppliers are required to provide, among other things: (a) a contract to consumers setting out provisions required by the *Energy Consumer Protection Act, 2010*; (b) a Disclosure Statement that sets out information a consumer should know prior to entering into a contract with an energy supplier; (c) a Price Comparison Form which attempts to compare a consumer's utility rate and bill cost against the supplier rate and bill cost; and (d) conduct a verification call when required using a script prescribed by the Board to ensure a consumer's clear understanding of the energy supplier contract price, term, relationship with the utility, inability to promise savings and cancellation rights among other things. Given this, Just Energy does not understand how anyone could reasonably say that consumers being unaware that they have or recently had a supplier contract or being unaware of their rights and

obligations under a supplier contract is a direct result of the shortcomings of energy suppliers. We contend that this cannot be the fault of energy suppliers but rather, the lack of consumer education on the energy industry as a whole which is alluded to throughout Innovative Research's ECPA, 2010 review. We look forward to the Board's education campaign that would serve the needs of all electricity and natural gas consumers.

Just Energy submits that the key to increasing consumer understanding of their rights and obligations under supply contracts is not to increase the number of documents consumers must review and interpret but rather, to enhance existing documents previously created for that same purpose as well as to implement consumer education initiatives. Increasing the number of documents for consumers to review will cause consumer confusion and place an unnecessarily onerous burden on suppliers. Just Energy is strongly opposed to the cover letter. We further submit that we have put much effort into creating plain language contracts which include headings in its terms and conditions and is of the view that our current contract already clearly sets out a consumer's rights and obligations.

With respect to the Board's proposed amendment to the RSC and GDAR to allow for a prescribed statement and supplier information on the bill and for the distributors to provide for up to 500 text characters to accommodate the same, Just Energy submits that we are in agreement with this proposal. Providing consumers with alternate methods of contacting their supplier directly on their bill is an excellent idea as it allows for consumers to communicate at their convenience and through a method they prefer.

Given discussions during recent RSC and GDAR EBT Standards Working Group consultations, Just Energy also submits that consultations held on this matter are not an appropriate platform for distributors to request fee increases; said increases should be requested through normal channels. In fact, distributor fee increases are not within the scope of the ECPA, 2010 review or Bill 112. Just Energy suggests that this proposed character allotment be used to display dynamic messaging relating to the supplier and supplier contract only and requests that suppliers be permitted to include their logo as part of this messaging. We further submit that electricity bills seem to be the focus of consumers during Innovate Research's consultation. Innovative Research Group found that the *presentation of the Global Adjustment on [supplier] bills, and the lack thereof on utility bills*, made comparison very difficult.<sup>1</sup> Their report stated: *Some participants felt that electricity bills are too complicated for them to understand. Most participants want to see clear and easy to understand information to help better inform energy decisions.*<sup>2</sup> Some of the participant quotes are; *Utility companies should put the Global Adjustment on their bills, I have sat down with many people to understand my energy bills and I still don't have a straight answer and when my bill comes, I have no clue what it means.*<sup>3</sup> In light of this proposal by the Board and Innovative Research Group's findings, Just Energy would like to take the opportunity to request that distributors be required to break out the Global Adjustment ("GA") from system supply rates on non-supplier billing. As a result of the differences in how the GA is displayed on system supply bills and supplier bills, consumers who switch to a supplier and receive their first few vendor bills think the GA is a new charge as this charge was not displayed separately from their supply costs on their previous bills under systems supply. We are of the view that the mechanism through which the GA can be broken out currently exists as it is already being done for supplier bills.

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<sup>1</sup> Ontario Energy Board, *Consumer Consultation Report: ECPA Review*, Innovative Research Group, Inc., Toronto: May 2015, 73.

<sup>2</sup> Ibid, 73.

<sup>3</sup> Ibid, 73.

With respect to the Board's proposed new "tip sheet" requirement, Just Energy submits that the Board should refrain from solely requiring energy suppliers to be the catalyst for enhancing consumer literacy and consumer awareness. While we agree with the intent of said "tip sheet", which is to educate consumers, we submit that it is an initiative that should be carried out as part of the Board's consumer education campaign; the cost for which should not be borne solely by energy suppliers. The number of OEB required documents consumers must review, understand and sign is overwhelming to consumers without this "tip sheet" and the implementation of said "tip sheet" will only compound this fact and leave energy suppliers with higher costs to bear. We reserve further comments until a draft of the "tip sheet" is circulated.

With respect to the Board's proposal to amend the RSC and GDAR to require distributors to provide written notice to consumers of the switch to a supplier, Just Energy submits that it is unnecessary to require this notice given the already existing Board required instruments such as the Disclosure Statement, Price Comparison Form and verification scripts which, from our understanding, were put in place to enhance consumer understanding of their rights and obligations under the contract and afford greater protections from unfair business practices at the door. We further submit that the benefit may not outweigh the cost of this one time notice. There are some distributors who have been sending similar notices since before the ECPA, 2010 review. The ECPA review findings as well as the content of the Board's report to the Minister of Energy does not suggest any material outcome on the effectiveness of sending these notices.

Just Energy submits that highlighting the fact that consumers are under a supplier contract on the bill is sufficient and more effective given that consumers will receive their bills more than once during the course of the supplier contract. Just Energy is of the view that it is unnecessary to require this notice and should the decision be made to implement said notice, energy suppliers should be involved in the approval of its content prior to implementation. Furthermore, we submit that the RSC and GDAR should be further amended to require that consumers are instructed to contact their competitive retailer/gas vendor for further information along with the competitive retailer/gas supplier's contact information.

We understand that the proposed cover letter and "tip sheet", as well as proposed changes to the Disclosure Statements, Price Comparison Form and verification scripts, will be distributed for comment at a later date. Just Energy submits that there must be sufficient time allotted for the review and consultation on these Board instruments which should be done after Bill 112 has passed and subsequent regulations have been drafted. Unnecessary strain on resources will otherwise result.

With respect to section F of the Notice of Proposal, Just Energy submits that the *Comparative Pricing Website* and *Complaint and Compliance Information* be submitted for comment prior to implementation. Also, Just Energy intends to take part in the consultation on *Additional Measures for Low-income Consumers* and would like to add that we are not aware of any notation on a consumer's bill today that would allow a retailer or anyone else for that matter to determine whether a consumer is low-income simply from looking at their bill. In addition, and with respect of the Board's consideration of intervening in energy supplier *pricing practices/hedging*; we submit that pricing and hedging practices are confidential and proprietary. In order for consumers to receive innovative products and services that are competitive, pricing and hedging practices should remain as such. Supplier pricing and hedging should be managed by suppliers and not the Board or Minister of Energy. Supplier pricing and hedging practices are not within the scope of Bill 112; currently in debate. In light of the above, we are of the view that there is no need for consultation on this matter as it should be stricken from the Board's agenda.

In conclusion, energy suppliers can provide value and will continue to provide value to customers – Just Energy regards itself as a leader in innovative energy and technology solutions. Improving consumer protection does not have to mean limiting consumer choice. The existence of energy retailers provides consumers with more choice so that they are better equipped and informed to make decisions about what energy commodity and non-commodity services solutions work best for them and provides them with innovative and solution oriented products to use.

Just Energy is committed to supporting Ontario's goal of enhanced consumer protection and hopes that it can be a collaborative partner with the Board in the development and enhancement of regulatory instruments that meet this goal, while continuing to allow consumers to efficiently and effectively choose the best products to meet their needs.

Just Energy is happy to answer any further questions you may have either by phone or in person. Thank you again for your consideration of this submission, and we look forward to participation in future consultation activities.

Sincerely,



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