



390 Brant Street Unit 402
Burlington, Ontario, L7R 4J4

T 1-866-628-9427
F 1-416-855-7487
info@activeenergy.ca

VIA COURIER AND EMAIL

August 17, 2016

Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, Suite 2700
Toronto, Ontario M4P 1E4

Dear Kirsten Walli:

RE: OEB File Number EB-2016-0179

On July 22, 2016 the Ontario Energy Board (“OEB”) issued a Notice of Proposal to Amend Codes and Rules to the Code of Conduct for Gas Marketers, Electricity Retailer Code of Conduct, Gas Distribution Access Rule, The Distribution System Code and The Unit Sub-Metering Code (“Notice”). Below and attached (Table 1) are Active Energy Inc.’s (“Active”) comments on the proposed changes to the Electricity Retailer Code of Conduct and Code of Conduct for Gas Marketers (“Codes”). The comments reference the proposed changes in the Electricity Retailer Code of Conduct. Active has the same comments for the proposed changes to the Code of Conduct for Gas Marketers since they are the same changes as in the Electricity Retailer Code of Conduct.

1. Electricity Retailer Code of Conduct Section 1.2 proposed change

Active supports including the definition for business day as defined in the Notice immediately after the definition of Board in Section 1.2 of the Retailer Code.

2. Electricity Retailer Code of Conduct Section 7.2. Notice to Consumers to contact the OEB on complaints

As proposed by the OEB, Active does not support a statement that requires an electricity retailer and/or natural gas marketer (“retailer”) to provide a complaining consumer with information for the OEB for the following reasons:

- i. Retailers have a vested interest to resolve consumer concerns in a timely and professional manner. Most complaints or concerns can be resolved with the consumer at the first point of contact (e.g. on the same call). Therefore it would be extremely unproductive for all parties involved to create an opportunity for the consumer to contact the OEB when the complaint is being resolved or resolved. By the time that the OEB forwards the consumer to the retailer, the matter would very likely be closed and resolved.

- ii. A retailer has a business interest in strengthening its consumer relationship, keeping the customer with the retailer, and resolving complaints to the customer's satisfaction. As such, during the initial stages of the resolution process both retailers and consumers are motivated (e.g., for financial or time reasons) to expeditiously reaching an amicable resolution. Mentioning the OEB during the initial stages of the resolution process has the risk of negatively impacting a favorable resolution processing or outcome for the consumer. For example, mentioning the OEB on the initial complaint call, may lead consumers to deferring to the OEB which can cause an unnecessary delay in the resolution process. The consumer is already provided with the OEB contact information on the retailer contract, Disclosure Form and Price Comparison Form left with the consumer and on the verification call. The consumer can take the initiative to refer to this material at any point during the resolution process with the retailer and contact the OEB if they feel the complaint handling is not to their satisfaction.
- iii. This recommendation can create an unintended consequence where the consumer is of the understanding that contacting the OEB is mandatory to resolve their complaint with the retailer. As stated in point i above, this would create the unnecessary filing of a complaint that has already been resolved or in the process of being resolved, and be an unproductive use of the time and resources of all parties involved.
- iv. Active would recommend that a time limit of 10 business days, from the time of receiving the consumer's complaint, be allowed to resolve the complaint directly with the retailer. If the complaint still remains unresolved or if the consumer is not satisfied with the resolution following the 10 business days, then the retailer shall advise the consumer that they may contact the OEB if they are not satisfied with the resolution provided.
- v. Active's recommendation in point iv above supports the following objectives stated by the OEB on page 2 of the Notice for the handling of unresolved disputes: 1) for the Regulated Entity to direct consumers to the OEB in "...instances where the consumer and the Regulated Entity are not able to resolve their dispute.;" and 2) provide consumers with a process to become aware of the OEB's role in handling unresolved complaints.

3. Electricity Retailer Code of Conduct Section 7.3 – Consumer Complaint Response (CCR) Process

- a) Active does not support the definition of "complaint" in Section 7.3 of the Code for the following reasons:
 - i. Dissatisfaction on its own has too broad of a meaning to allow it to be the main focus on what determines a complaint. Dissatisfaction with something a retailer does may not mean that it qualifies as a complaint or should be classified as one. For example, a consumer may be dissatisfied with information being provided by a call centre agent and the information being provided may fall within the jurisdiction of the Board but that does not mean that the information was incorrect or should not have been provided. It may very well mean that the information is accurate and in this instance the dissatisfaction would not qualify as a complaint.
 - ii. Active would recommend providing a more precise definition for a complaint. For example, it may be defined as follows - "*Complaint*" means a formal allegation by a consumer about a retailer or Salesperson having engaged in any improper course of conduct pertaining to Marketing on a matter that is within the Board's jurisdiction.;"
- b) Active has no comment on Section 7.3A, 7.3B and 7.3C
- c) Active does not support the time limits allowed in Section 7.3D for responding to complaints for the following reasons:
 - i. Active does not believe 2 business days is sufficient time to allow for a proper investigation to be completed into the allegations that may be raised in complaints as it

pertains to the egregious conduct by a salesperson or verification representative or to any matter that the Designated OEB Staff has designated as having an unduly adverse impact on the consumer. Two (2) business days does not allow for Active to be able to conduct a thorough investigation into the allegations being made and determine their validity. A thorough investigation involves interviewing with salespersons and the consumer several times and reviewing documentation from several sources (consumer, salespersons, utilities, etc.) to obtain an accurate account of the events resulting in the complaint. In the interest of reaching a satisfactory customer resolution, time is required for all parties to respond to and address all claims raised, and review any documents thoroughly. It has been Active's experience that the investigation process and preparing a thorough response to serious allegations requires more than 2 business days. The risks of implementing a 2 business day turnaround time to complete a response are incomplete responses and/or an unsatisfactory customer resolution. Both these consequences will result in the OEB and retailer spending more resources to address the complaint; which could have been addressed if more time was permitted.

- ii. In order for Active to provide a fulsome response to these type of complaints provide a complete customer resolution, and minimize complaint handling cost, Active recommends a response time of 5 business days for these complaints. For all other complaints, Active supports the OEB's recommendation of a response time of 10 business days.
- d) Active has no comment on Section 7.3E
- e) Active does not support the time limit allowed for providing additional information on a complaint as outlined in Section 7.3F, for the same reasons as mentioned above for Section 7.3D, Active does not find 2 business days to be realistic for these type of requests and would recommend a period of 5 business days to allow for all the necessary information to be provided as requested?
- f) Active supports Section 7.3G and has no comments on 7.3H. 7.3I and 7.3J

4. Electricity Retailer Code of Conduct Appendix A and B – Certificate of Compliance

Active has no comments on the changes made to the Certificate of Compliance

Please contact me if you have any questions.

Regards,



Cordale Blackett
Manager, Compliance & Regulatory Affairs
Phone: 416-238-5540