

August 23, 2019



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**SENT VIA MAIL & EMAIL – [boardsec@ontarioenergyboard.ca](mailto:boardsec@ontarioenergyboard.ca)**

**Re: NOTICE OF PROPOSAL TO AMEND CODES PROPOSED AMENDMENTS TO THE ELECTRICITY  
RETAILER CODE OF CONDUCT AND THE CODE OF CONDUCT FOR GAS MARKETERS –  
EB-2018-0335**

Planet Energy appreciates the opportunity to comment on the Notice of Proposal to Amend Codes Proposed Amendments to the Electricity Retailer Code of Conduct and the Code of Conduct for Gas Marketers on August 1, 2019 – EB-2018-0335.

### **Introduction and Summary**

Planet Energy is supportive of a number of the Ontario Energy Board's (OEB) initiatives to make changes to the current Codes of Conduct. Planet's experience has been that most consumer complaints can be resolved quickly, whether or not those complaints proceed through the OEB's established processes.

Planet Energy does have several concerns with respect to some of the proposed changes to the Codes. Those concerns relate to two features of the proposed amendments:

First, the proposal that a retailer or marketer respond to certain types of complaints within two business days is unreasonable and may prove to be counterproductive. Planet's view, based on experience, is that the investigation and assembly of documents required by the proposed amendments could reasonably take more than two days. Accordingly, retailers and marketers may end up submitting responses that are not as complete as the OEB would want. In turn, this may lead to more back and forth communication for clarification and additional data. As a consequence, imposing an unreasonably short initial response time could actually end up making the complaint resolution process longer. As a solution for this hazard, Planet recommends extending the initial response time for these types of complaints to five days.

Second, in several instances, the proposed amendments are ambiguous. For instance, the requirements that a retailer or marketer provide to the OEB: i) any information that is "reasonably necessary to enable a good understanding" regarding the complaint or ii) a copy of all relevant documents between the consumer and the retailer" are both unclear and over-reaching. This lack of clarity could lead to unnecessary conflict during the complaint resolution process. The ambiguity and breadth of the document production required at this very early stage in the complaint resolution process is unfair and inappropriate, given that this codified process will itself be an enforceable provision subject to

compliance proceedings. These ambiguous requirements should be deleted from the proposed amendments or, in the alternative, be reduced in scope. These concerns and issues are discussed in greater detail below.

## Discussion

Section 7.3 of Part B of the Electricity Retailer Code of Conduct and Code of Conduct for Gas Marketers, which replaces the existing Codes with proposed change 7.3E which states as follows:

*Where a complaint is forwarded to a retailer through the OEB E-Portal, the retailer shall provide, through the OEB E-Portal, a response to the complaint that meets the requirements of section 7.3F within:*

*(a) two business days of the date of receipt of the complaint, where the complaint relates to an allegation of egregious agent conduct or is otherwise identified as urgent by the OEB when forwarding the complaint to the retailer; or*

Planet Energy notes that while some of the requirements listed in this section could be achieved, it is; however, highly unlikely to meet other listed obligations within two days of receipt of a complaint. In the alternative, responses could be sent within two days, but the responses would likely be incomplete, resulting in additional follow up and communications and thereby resulting in making the complaint process significantly longer and more complicated. It is Planet Energy's experience that while there are exceptions, a thorough and complete investigation of all materials, communications, and documentation and if applicable, parties involved, takes longer than two business days. Planet Energy recommends that this section be changed to five business days.

Section 7.3F states:

*The retailer's response referred to in section 7.3E must include the following:*

Subsection (a) states:

*all pertinent information regarding the complaint, including any relevant background information;*

As stated, Planet Energy believes it to be unlikely that this requirement could be met with competency and full disclosure within two days. It is common that a customer cannot be immediately reached, and a full investigation, especially where multiple communications have occurred, generally takes more than two days to review.

Subsection (d) states:

*any other information that is reasonably necessary to enable a good understanding of the circumstances surrounding the complaint;*

While Planet Energy understands what the spirit of this change may aim for, it does; however, note that unlimited and/or ambiguous rules have never been beneficial to any party, paramount of which is for the consumer, and ultimately leads to frustration on the part of all parties when the rules are not

specific, defined and known. Planet Energy believes that ambiguity is unfair and inappropriate, and notes that the updated Codes of Conduct are themselves an enforceable provision and as such, subject to compliance proceedings should the matter warrant such action. Planet Energy recommends that this recommended change be removed.

Subsection (g) states:

*a copy of all relevant documents and communications between the consumer and the retailer in relation to the complaint.*

Planet Energy believes that ambiguity is unfair and inappropriate, and notes that the updated Codes of Conduct are themselves an enforceable provision and as such, subject to compliance proceedings should the matter warrant such action. Specifically, as “relevant documents” are not defined, Planet Energy recommends that this recommended change be removed.

Section 7.3G states:

*Within five business days of being requested to do so, a retailer shall provide, through the OEB E-Portal, such additional information beyond the information required by section 7.3F regarding the retailer handling of a complaint as may be required by the OEB in order to review and assess the matter.*

As stated above, this section appears to grant an ambiguous and perhaps unlimited right to request any information while not being based upon any guiding standards, all within a standard complaint response. Current regulations permit review through the OEB’s investigative powers. Should a complaint require additional review and/or investigation, the path for that review should not be via a standard complaint response, but within an official investigation. Planet Energy recommends that this recommended change be removed.

## **Conclusion**

As noted above, Planet supports many of the provisions in the proposed amendments. However, Planet recommends that the OEB:

- 1) extend the timeline for responses in respect of urgent complaints from two days to five days, and
- 2) remove or substantially reduce the scope of those provisions that impose ambiguous standards for information and document production by retailers and marketers.

Planet’s view is that those two changes will help ensure that the consumer complaint process is fair and works well.

Sincerely,



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