

Pietro Valentyne
90 Eastdale Avenue, Apt. 1110
Toronto, Ontario M4C 5A2

May 26, 2009

Ontario Energy Board
P.O. Box 2319, 27th Floor
2300 Yonge Street
Toronto, ON M4P 1E4
BoardSec@oeb.gov.on.ca

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli,

Re: Authorization to Conduct Discretionary Metering Activities
Board File No. EB-2009-0111
SUBMISSIONS

In response to the Board's Notice of Written Hearing and Procedural Order No. 1 to determine whether or not certain distributors that have not otherwise been authorized to conduct discretionary metering activities in accordance with section 53.18 of the *Electricity Act, 1998* should be authorized to do so by an order or orders of the Board, my submissions follow.

- 1) The Board should definitely **not** authorize these Exempt Distributors to conduct discretionary metering activities.
- 2) These Exempt Distributors and the smart sub-metering providers (such as Stratacon) have been operating without a licence for several years installing sub-metering systems in residential apartment complexes throughout Ontario. This activity is clearly in violation of section 53.18 of the *Electricity Act, 1998* and the *Residential Tenancies Act 2006*. Not only has the Board not enforced its own act and regulations, but it now contemplates rewarding this non-compliant activity with an order of authorization after years of condoning it. To do so would reflect very negatively and suspiciously upon the Board's integrity, and the public trust in this matter would be further injured.
- 3) The Board should immediately issue a cease and desist order to all licensed smart sub-metering providers and their Exempt Distributors. The Board should also set substantial fines for non-compliance. Not to do so would again reflect very poorly upon the Board's integrity as it has not enforced its own act and regulations.
- 4) The Board must reassert its authority and integrity by forcing the licensed smart-sub-metering providers to comply with the Board's orders as set out in paragraph 1 of the Notice of Written Hearing and Procedural Order No. 1. The Board's order was:

“...the licensed smart sub-metering providers shall inform the Exempt Distributor that the Exempt Distributor must, within 2 business days of receiving the Notice from the smart sub-metering provider: (i) post a copy of this Notice of Written Hearing and Procedural Order No. 1 in a prominent location in each building in which a smart sub-metering system has been installed; and (ii) provide a copy of this Notice of Written Hearing and Procedural Order No. 1 to the tenants/consumers in their buildings in which a smart sub-metering system has been installed.”

I can inform the Board with certainty that in my building, 90 Eastdale Avenue, Toronto, Ontario, M4C 5A2, this order has **not** been complied with by the licensed smart sub-metering provider **Stratacon** and the Exempt Distributor **Gonte Construction Limited**, 11 Curity Avenue, Toronto, Ontario, M4B 1X4. The Notice has **never** been posted in a prominent location in my building, nor has every tenant received a copy of the Notice.

5) The Board must reassert its authority and integrity by forcing the licensed smart sub-metering providers to comply with the Board's orders as set out in paragraph 2 of the Notice of Written Hearing and Procedural Order No. 1. The Board's order was that the:

“Licensed smart sub-metering providers shall file with the Board a list of the Exempt Distributors identified in paragraph 1 and confirmation that it has provided a copy of the Notice of Written Hearing and Procedural Order No. 1 (and the instructions in paragraph 1) to each of those Exempt Distributors.”

A complete and transparent list of the Exempt Distributors is required for the Board to enforce its act and regulations. As past non-compliant behaviour dictates, the sub-metering provider **Stratacon** is refusing to act in accordance with the Board's orders. Consequently the Board needs to take measures into its own hands and issue severe fines for non-compliance and enforce its orders. Only by doing so will the Board regain the public's trust and confidence in administering the law appropriately in the matter within this branch of provincial government. Tenants/consumers will then know the Ontario Energy Board is looking out for their best interests.

6) As a consequence of the Board not enforcing its own act and regulations in accordance with section 53.18 of the *Electricity Act, 1998*, Ontario tenants, who include hard working citizens and immigrants, seniors, pensioners, single parents, and low-income residents, have been preyed upon by the smart sub-metering providers and the Exempt Distributors. This non-compliant behaviour should have been nipped in the bud in the outset. Instead we have thousands upon thousands of Ontario tenants who have either been coerced or beguiled by their landlords (the Exempt Distributors) into signing a contract with a sub-metering provider to pay for their hydro separately. In my particular case the sub-metering provider is Stratacon and the Exempt Distributor is Shalina Nasser of Gonte Construction. A copy of my letter to the landlord is attached as Schedule “A.” This activity is not in accordance with the law. The Board has an ethical and legal obligation to enforce the law and stop this wilful disregard of the law.

7) Any contract that has been signed by a tenant of a residential apartment complex in Ontario under the persuasion or coercion of their landlord to pay for hydro separately to a smart sub-metering provider is null and void due to the fact that such discretionary metering activity is not licensed under the *Electricity Act, 1998* nor under the *Residential Tenancies Act 2006*.

8) Any misinformation given by the landlords (the Exempt Distributors) to the tenants regarding how much tenants are expected to pay for hydro consumption in their units also invalidates the contract and renders it null and void. As an example, in my case the landlord said my bill would be about \$40 a month for a single person in a one bedroom apartment. This clearly was not the case. It was misleading information used as a means to make me sign the contract.

9) Discretionary metering activities should **not** be authorized to extend to residential apartment complexes. Unlike condominiums whose residents are owners, tenants rent the units. The tenants have no control over the appliances in their units. Most rental units have older fridges and stoves which are not energy efficient. Tenants have no control over the efficiency of the heating in units that are electrically heated. Tenants have no control over the structural integrity of the unit with regards to insular conditions in the winter including doors and windows. Furthermore, these sub-metering systems are being installed in locations under lock and key accessible only to the sub-metering providers and the Exempt Distributors.

10) Discretionary metering activities should **not** be authorized to extend to residential apartment complexes. There is no regulation in place to oversee the installation of these sub-metering systems; and there is no regulation to inspect and verify the accuracy of these sub-metering systems.

11) Discretionary metering activities should **not** be authorized to extend to residential apartment complexes. The smart sub-metering providers and the Exempt Distributors who have installed smart sub-metering systems in these complexes have done so surreptitiously. Firstly, the installing of these systems is not licensed by the *Electricity Act, 1998* or the *Residential Tenancies Act 2006* and therefore is not legal. Secondly, as a result of the Board's inability to enforce its own act and regulations, this unregulated activity has been allowed not only to continue but to flourish in a way that is extremely inopportune and financially damaging to Ontario tenants/consumers. Thirdly, the only parties benefiting from this non-compliant and unregulated activity are the smart sub-metering providers and the Exempt Distributors. Long-standing tenants who have rental contracts with their landlords that include hydro are being duped into signing a contract (not legally) to pay for hydro separately only to see their monthly living expenses increase outrageously.

12) Exempt Distributors (the landlords) have one priority in mind, and it is not the conservation of energy. They are concerned with profits. The same can be said for the smart sub-metering providers, such as Stratacon. Under the guise of the "smart metering initiative," they will argue otherwise. However, any tenant who has been promised by an Exempt Distributor a savings in their monthly expenses as a result of signing on with a sub-metering provider knows otherwise. This unregulated activity by the smart sub-

metering providers and the Exempt Distributors is nothing more than a scheme to increase profits at the expense of Ontario tenants.

13) Exempt Distributors, such as Gonte Construction Limited, have not shown any initiative to provide to their tenants informative ways of conserving energy. I have lived at 90 Eastdale for over six years, and not once have I seen any informative circulars or flyers about ways of reducing energy consumption.

14) Ontario tenants, who include hard working citizens and immigrants, seniors, pensioners, single parents, and low-income residents, have no interest in participating in a program of sub-metering which is ostensibly designed to conserve energy when their monthly living expenses rise as a result of participating in such a program.

15) The Ontario Energy Board, the Landlord Tenant Board and the Ministry of Municipal Affairs and Housing should work together in their specific jurisdictions to rid Ontario of this current smart sub-metering scam and come up with better alternatives toward energy conservation. In this current scenario, the tenants are being victimized. They are being bullied or hoodwinked by their landlords into signing up with a sub-metering provider like Stratacon only to discover they are being financially penalized for doing so.

16) If tenants are to play an active roll in Ontario's initiative to conserve energy, then they should be appropriately compensated for their individual efforts of energy conservation. Tenants should see their monthly living expenses decrease proportionally to the amount of monthly energy they save. It should not, and can not work any other way. The current non-compliant and unregulated activity by licensed smart sub-metering providers and their Exempt Distributors is clearly not the way to do this. The Board needs to put an end to this activity of greed and misdemeanour immediately.

I thank the Board for considering these submissions.

Yours truly,

Pietro Valentyne
Phone: 416-954-1225
Email: pietro.valentyne@irb-cisr.gc.ca

Transmitted electronically with two hard copies to follow.

Encl.

cc: Barbara Robertson, Case Manager @ barbara.robertson@oeb.gov.on.ca
cc: Landlord & Tenant Board, 79 St. Clair Avenue East, Suite 212, Toronto ON M4T 1M6
cc: Ministry of Municipal Affairs and Housing, 777 Bay St. 2nd Flr., Toronto ON M5G 2E5
cc: Better Business Bureau, 1 Eva Road, Toronto, ON M9C 4Z5

SCHEDULE "A"

90 Eastdale Avenue, Apt 1110
Toronto, ON M4C 5A2

April 20, 2009

Shalina Nasser
Gonte Construction Limited
11 Curity Avenue
Toronto, ON M4B 1X4

Dear Ms. Nasser,

As you are the landlord of my current residence I am writing to inform you of the situation regarding the hydro in this building and my apartment.

In October 2008 I had a conversation with the superintendent of 90 Eastdale about what was going on with the hydro. She told me that I could pay my own hydro and the landlord would deduct \$69 from my rent. She convinced me to do so by telling me my hydro would be about \$40 a month since I am a single person in a one bedroom apartment. I thought this was a good deal. So, I decided to switch over for the month of December 2008.

In February 2009, three months later, I received my first bill from this submetering company Stratacon for account number 5002832177. This was a bill for the month of November 2008. Not only was I shocked at receiving a bill for a month in which I had paid complete rent including hydro, but I was shocked at the amount of the bill. Stratacon was charging me \$311.40 for one month! I then found out that this company wanted a \$200 deposit as well as the \$111.40 charge for the month of November 2008. This was completely outrageous. The superintendent made no mention of a \$200 deposit when I signed up. I called Stratacon to complain about being billed for a month in which I did not sign up. They told me they would look into it and resolve the problem.

Over the course of the next month I called Stratacon at least six times to inquire into the error of billing me for the month of November 2008. Each time I spoke with some representative in the United States who assured me the matter would be resolved. Then the following month I received another bill from this company. They were charging me \$444.98 for two months of hydro including the deposit. This is completely outrageous! I am a single person who is conscious of energy. I was very aware to keep the heat low during the winter months. In fact, I spent more time putting on extra clothing then turning up the thermostat. I kept the heat low for the reason of conserving energy and costs. And Stratacon is billing me for \$111.40 in November and \$131.35 for December 2008! Not to mention that the erroneous bill for November 2008 was still showing. On top of which they were now charging me late fees for a month I did not sign up for.

The bottom line is I was misled by the superintendent into believing my cost would be \$40 a month for hydro. This has caused me a high degree of stress because I was not expecting such extortion on a budgeted income.

My attempts to resolve the billing error for November 2008 with Stratacon fell on deaf ears. Contrary to the blurb on the bottom of their invoice, "Our relationship with our

customers is very important to us; we work hard to ensure that their concerns are heard, question are answered and needs are met,” this company has proven to be mismanaged and irresponsible when it comes to customer complaints.

Out of frustration and under the impression that I was trapped in this contract with Stratacon, I contacted the Ontario Energy Board and spoke with Donna Kinapen at Consumer Relations. When I explained my situation to her, she was very clear with me: ***Stratacon is not licensed to submeter in apartment buildings.*** She told me the legislation is only for condominiums. So what you are doing with Stratacon setting up submetering in this apartment building is **not legal**. Plain and simple (see The Electricity Act, 1998, S53.18). I also contacted the Landlord & Tenant Board regarding my rights in this situation. I was informed that indeed the practice of submetering apartment buildings is not legal. It is not provided for in the Residential Tenancies Act. I was advised by the Landlord & Tenant Board of my rights. I am well within my rights to discard this bogus “contract” with Stratacon because it is not legal.

Therefore, I give you notice immediately, that the “contract” I had with Stratacon is **null and void**. I will no longer be dealing with this company. I will be reverting back to my original rental contract which includes hydro. Starting the month of May 2009 I will be paying once again the rent including hydro to you.

The Landlord & Tenant Board advised me I should pay back the \$69 deducted from my rent for the past five months (December 2008 – April 2009) to you. I do intend to make amends in this regards. However, since I am on a budget, I propose that I shall pay back the sum of \$345 over a period of 4 months. If this is not agreeable to you, then the Landlord & Tenant Board can help arbitrate the matter.

I question the fairness and accuracy of the meter readings with Stratacon. I invite the Ontario Energy Board, the Better Business Bureau and Toronto Hydro to conduct a non-biased third party investigation into this company’s practices, meter installations, and meter readings for accuracy.

As my landlord, I assume you know that submetering in apartment buildings is not lawful. I am very disappointed in how you are treating me after being such a good tenant the past six years.

Yours sincerely,

Pietro Valentyne

Encl.

Cc: Landlord & Tenant Board, 79 St. Clair Avenue East, Suite 212, Toronto ON M4T 1M6
Cc: Ontario Energy Board, P.O. Box 2319, 2300 Yonge St., Toronto, ON M4P 1E4
Cc: Toronto Hydro, 5800 Yonge Street, Toronto ON M2M 3T3
Cc: Better Business Bureau, 1 Eva Road, Toronto, ON M9C 4Z5
Cc: Stratacon, 641 Chrislea Road, Unit 8, Woodbridge, ON L4L 8A3