



October 14, 2009

Kirsten Walli
Board Secretary
Ontario Energy Board
PO Box 2319
2300 Yonge St
Suite 2700
Toronto, ON. M4P 1E4

Dear Ms. Walli

Re: Proposed amendments to the Natural Gas Reporting and Record Keeping Requirements for Gas Utilities, EB-2009-0162

Direct Energy (DE) welcomes the opportunity to provide the Ontario Energy Board (OEB) with its comments on the proposed amendments to the Natural Gas Reporting and Record Keeping Requirements for Gas Utilities (RRR for Gas Utilities). DE supports the OEB's effort to monitor developments in the retail markets. DE would like to assist the OEB in further clarifying the proposed amendments to the RRR for Gas Utilities by making the following comments and recommendations.

Section 1.6 Confidentiality of Information

DE would respectfully recommend that the OEB require gas utilities to provide information regarding retail market activity only on an aggregated basis for all licensed marketers, delineated by residential and large volume consumers. This will allow the OEB to achieve the objective of monitoring developments in the retail market while protecting commercially sensitive data for individual marketers.

If the OEB continues with the proposed amendments and requires gas utilities to provide detailed information by individual marketer, DE would respectfully expect that the OEB would only disclose information in a form such that the identity of any individual marketer data cannot be determined. At a minimum therefore, to ensure confidentiality is maintained, DE would request that the proposed amendments to the RRR for Gas Utilities make it clear that individual marketer data, which is commercially sensitive in nature, will not be released or disclosed.

Section 2.1.3 Reporting

The proposed amendments to the RRR for Gas Utilities would require that gas utilities provide the OEB detailed information regarding retail market activity including data on customer switches by individual marketer. Switch rates are an important dimension of energy market competitiveness and have the advantage of being objective, measurable, and comparable between markets. Switching data must however be interpreted within the correct market context. In some markets high switch rates may reflect the fact that the default supply option is priced in such a way as to support retail competition (such as the Price-to-Beat regime in Texas) or that in fact no default

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supply option exists at all. This is not the context of the Ontario gas market where customers' default gas supply is provided by rate-regulated gas utilities, effectively on a cost flow-through basis. Lower switch rates may therefore simply reflect an unlevel playing field between default pricing and pricing offered by competitive providers. DE would respectfully suggest therefore that careful consideration be given to how this data is utilised for drawing conclusions about the Ontario market.

Furthermore, switching information on a marketer-by-marketer basis appears to be an attempt to assess the competitive position of a particular market participant. As noted above, DE would respectfully suggest that it may be more appropriate for the OEB to require gas utilities to provide information regarding retail market activity on an aggregated basis. This will allow the OEB to achieve the objective of monitoring developments in the retail market while protecting commercially sensitive data for individual marketers. This approach is also consistent with the proposed amendments in section 2.1.14 of the RRR for Gas Utilities where the OEB is requiring gas utilities to provide aggregated numbers for quantities of gas sold to direct purchase customers, and not by individual marketer or direct purchase customer. This indicates the OEB is still able to achieve its goals of enhanced reporting requirements while protecting individual marketer data. Furthermore, the marketer data is presumably not being requested in this context to assess the competitive position of any one marketer, as individual marketer data is being requested directly from marketers under the RRR – Gas Marketer. As such, DE would submit that utility reporting of marketer data should remain aggregated and that specific marketer data be sought directly from the marketer company.

In addition, DE would respectfully suggest that the OEB engage in broader consultative discussions with industry and other stakeholders before implementing any of the proposed changes. While the OEB is concerned with obtaining information and promoting insight into the development of the retail market, there may be negative consequences for individual marketers based on the proposed amendments, particularly if commercially sensitive information is released publicly. Also, this scenario may result in individual marketers initiating other steps to maintain the confidentiality of customer information and to prevent the release of such data, including legal recourse.

DE would like to thank the OEB for the opportunity to comment on the proposed amendments to the RRR for Gas Utilities. DE supports the OEB's effort to monitor developments in the retail market. There are however proposed changes which DE would respectfully suggest require more consideration before their implementation to ensure a fair balance between providing insight into the retail market and protecting commercially sensitive information for individual marketers.

Yours sincerely



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