



September 3, 2010

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

Dear Ms. Walli,

Re: EB-2010-0245 –Supplementary Response to Board Proposal to Revoke and Reissue Code Amendments - Notice Dated August 12, 2010.

As requested by the Board in its August 4th Notice to this consultation¹, Just Energy Ontario L.P. and Summitt Energy Management Inc. (collectively "JE&SE") share similar views as presented in this submission and therefore have filed this position jointly. Both parties reserve their right to participate independently throughout the consultation.

JE&SE filed a separate submission jointly with other suppliers this date. This submission provides additional recommendations as a supplement to the initial filing. The subject matter of this supplemental submission is in regards to the Board's proposed Code amendments as it pertains to the transfer request where a low volume consumer enters into contract with another supplier².

Multiple Contracts Serving a Single Premise-Contract Overwrites

1. In short, the Regulation prescribes that a consumer who currently has a contract for supply with a given supplier ("Supplier #1") who then signs a contract for supply with a second supplier

¹ OEB Notice Dated August 4, 2010; Appendix A

² ER-Code: Section 3.8-3.9, GM-Code: Section 3.6-3.7.

(Supplier #2) is held harmless from exit fees pertaining to this second contract if the service period overlaps the existing supply contract with Supplier #1³.

2. The Board proposal recommends a process in which Supplier #1 is required to notify the customer of any financial amounts (Exit Fees) owing to Supplier #1, should the consumer continue with the transfer⁴.
3. Respectfully, this proposed solution falls short in many aspects. To determine the appropriate solution, again, one must look at the underlying reason for the legislative change- the effect on the end use consumer.
4. The underlying issue which the Board attempts to address is in response to consumer issues identified in which a consumer finds themselves contracted to 2 separate suppliers serving the same premise with overlapping service periods and therefore subject to financial amounts/penalties to one, or both, of the suppliers .
5. The incidence of complaints received by government, MPPs, the OEB and suppliers themselves evidence that this root cause contributes materially to the overall complaint volumes received in the industry. The Board need look no further than to analyze the complaints it has received over the past few years to verify this view is accurate.
6. In fact some suppliers ceased processing sales in which the customer was currently signed with another supplier in order to mitigate the effect on the end use consumers who were subject to this scenario because it was clear that the industry business process (the "Contest Period") was not working as contemplated, in this regard. Upon receiving the notice from the utility that the customer was currently signed with another supplier, they would immediately terminate their own enrolment request (forego their own sale to the customer), to protect the customer from the outcome that would be produced.
7. The Contest Period, which is the process created and implemented under the Retail Settlement Code ("RSC") and the Gas Distribution Access Rule ("GDAR"), is the business process which facilitates this negative outcome for the consumer.

³ Draft Regulation under ECPA, section 19(1)(d)(e).

⁴ ER-Code, Section 3.8 and GM-Code, Section 3.6

8. In fairness, the Contest Period was created years ago with the expectation that it would provide a more convenient means for a consumer to switch suppliers, and facilitate the process more efficiently in the industry. JE&SE in fact, supported the adoption of this process initially as we believed it would have a positive effect for consumers. This process, in various forms, is used in few other markets.
9. However, here in Ontario, it became evident early on, that the process was not, in our view, providing the positive effect expected but conversely was found to be the root cause of a significant number of complaints for consumers, as noted previously.
10. As noted earlier, the Board's proposal does not remedy this issue; it in fact will have no material impact to the current issues experienced by consumers. The Board proposal obligates Supplier #1 to notify the consumer of the contractual obligations of terminating its contract as soon as Supplier #1 receives the notice of the switch request from the utility. This practice already happens today- it is not new.
11. Competitive suppliers need no incentive or imposed obligation to attempt to retain their existing customers- they already do it today. It is in their best interest to contact the customer as soon as they find out the customer wishes to switch to another supplier -and they do.
12. The Board has the authority to receive the transaction counts in the market and if it analyses the percentage of NPS transactions and SA-TTR transactions sent monthly (requests to switch and subsequent terminations issued in response to those requests), the evidence will clearly demonstrate that suppliers already contact their customers and notify them as the Board is proposing they should do.
13. Conferring on obligation on Supplier #1 to send notice to the consumer of the exit fees will in fact ensure required notice however it does not ensure a consumer reads or actions the notice within the industry timelines for Contest Period transaction processing. It also does not ensure that a consumer knowingly understands the financial impact of this decision in time to retain the current contract, before the Contest Period expires, should they desire to do so.
14. Further, should the consumer realize the impact of their decision at some later dates, days or months in the future, the consumer cannot simply request to transfer back to Supplier #1 at the same terms and rates previously supplied. They will however, reasonably be obligated to pay the exit fee obligations under the contract.

15. JE&SE submit that, similar to several other jurisdictions in North America, the process should ensure that the consumer makes contact with Supplier #1 and understands the financial impact of the transfer prior to Supplier #2 initiating the transfer request.

Recommended Solution _Contract Overwrites

JE&SE recommends that in the case of a contract overwrite, that the Board direct utilities to reject transfer requests from Supplier #2 where the transfer requests a start date which overlaps an existing supplier contract.

This will ensure that in each case, the consumer consults their current contract with the current supplier prior to entering into another contractual relationship with a second supplier, therefore ensuring the consumer makes an informed choice.

The Suppliers note that this was previously the industry process followed in Ontario for natural gas sales before the implementation of the GDAR.

All of which is respectfully submitted.



Gord Potter
Executive Vice President
Just Energy

On behalf itself and of:
Gerry Haggerty
President and CEO
Summitt Energy Management Inc.