



September 9, 2010

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street  
27th floor  
Toronto, ON M4P 1E4

Re: Comments EB-2010-0245  
Consultation on Implementation of the Energy Consumer Protection Act

Dear Ms. Walli:

Please accept our apologies for not providing these comments in accordance with the specified timelines.

As anticipated, our involvement in this matter is confined to the interests of large volume consumers and, as such, our comments are limited.

While we greatly appreciate the Board's Sept 8, 2010 decision that BOMA is eligible for funding in this initiative, we will nonetheless not be making a cost submission, due to the limited nature of our participation.

In general we share the view of Shell Energy and others that large consumers are well informed and capable of entering into commercial contracts of their own accord, without the need for consumer protection mechanisms designed for low volume consumers. Specifically, the need for retailer training and identification badges are simply not applicable to such commercial transactions.

There are, however, instances where large volume consumers can fall victim to unethical sales practices of energy retailers. For example:

Our members have reported instances where energy retailers obtain the signature of an unauthorized company representative (often administrative or reception staff) on the basis of "confirming that they are eligible to receive rebates", or other such misrepresentations. A variation on this would be for the retailer to obtain a copy of a utility bill under similar pretenses, and simply enroll the account without authorization.

While it was never the intention of the building owner/manager to willingly enter any such contract, they find themselves with their utility account enrolled with the particular retail supplier.

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Often this does not come to light until many months of billing has occurred. This is especially common amongst portfolio managers of multiple properties, where it is now become standard practice to warn all operating staff of the potential for such fraud to occur.

In such instances, enforcement of contract law and threat of litigation is an expensive and impractical remedy. Certainly we believe the OEB should have some authority to hear such complaints and intervene with the Retailer to effect a resolution, rather than acquiescing that "the codes are only applicable to low volume consumers".

A condition of the Retailer's license that should apply to all consumers, large and small, should be that they not enroll customers on the basis of misrepresentation, or obtain signatures of unauthorized representatives. Large consumers who have experienced such transgressions should be able to report them to the OEB, who would have to the authority to intervene.

A related instance whereby large consumers are unknowingly enrolled involves automatic renewals of existing contracts. Many contract forms allow for such automatic renewal on a 'negative option' basis, whereby the (large volume) consumer must confirm that they do not wish to re-new. Often the renewal notices are sent to errant addresses, possibly with the intention of avoiding detection. ( e.g. renewal notice sent to the site address, rather than to the head office address indicated on the contract.). We would suggest that any automatic contract renewals require the positive reaffirmation of the large volume consumer for the renewed contract to remain valid.

Thank you for the opportunity to provide this input to the consultation.

Sincerely,



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