

IN THE MATTER OF a the Ontario Energy Board Act, 1998, S.O. 1998, c.15 (Schedule B)

AND IN THE MATTER OF a Notice of Intention to Make an Order of Compliance,
Suspension and an Administrative Penalty against Summitt Energy Management Inc. dated June 17th, 2010-12-09

EB-2010-0221

TABLE OF ACTION INITIATED BY SUMMITT ENERGY MANAGEMENT INC.
IN RESPONSE TO INTERIM ORDER OF COMPLIANCE dated June 17th, 2010 and PROCEDURAL ORDER NO.1 dated June 28th, 2010

Item	Action	Reference	Cross-Reference to Proposed 14 Point Program	Implementation Date
1.	<p>NEW SUMMITT SALES VERIFICATION PROCESS</p> <p>Summitt Energy Management Inc. ("Summitt") implemented a new sales quality assurance call process in an effort to verify that each prospective customer of Summitt has a full understanding of the natural gas and electricity agreement. A recorded call with each such customer at the time of any sale must be completed, the particulars of which are set out in greater detail below.</p> <p>The sales quality assurance call takes place between the consumer (from his/her residential telephone) and one of Summitt's customer service representatives (CSR) in the presence of the sales agent. The sales agent is advised by the CSR at the beginning of the call that he/she cannot speak during the call and then is asked by the CSR to provide the telephone to the customer. If the CSR hears the sales agent speak or in any way "coach" the customer at any time during the call, the CSRs have been instructed to promptly terminate the call, with the result being that the sale will not be processed. As a further safeguard, when a call is terminated in this manner, the subject customer cannot be re-contacted for a minimum period of five (5) days by that agent.</p> <p>A copy of the script employed by the CSRs was attached as Schedule "A" to the</p>	<p>See letters from Cassels Brock & Blackwell LLP ("CBB"), counsel to Summitt, dated June 30th, 2010 and July 7th, 2010. See Tabs 3 and 4 of Compendium of Documents of Compliance Counsel dated September 7th, 2010 and marked as Exhibit K.6.4</p>	<p>See Paragraph 593(c) on pages 198-199 of Closing Submissions of Summitt, dated September 20th, 2010.</p>	<p>Effect June 18th, 2010, Summitt commenced work on implementing a new point of sale quality assurance call. By June 28, 2010, all offices were introduced to the call and each sales agent was required to complete a QA call and the customer was required to positively affirm all points on the call in order for Summitt to proceed to the next stages of enrolment, including reaffirmation.</p>

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	<p>letter of July 7th, 2010 from Cassels Brock and Blackwell (on behalf of Summitt) to the OEB. In summary, the CSRs proposed to ask each new consumer to confirm that the consumer understands:</p> <ul style="list-style-type: none">• that Summitt is not affiliated with the utility, the government or the Ontario Energy Board;• that the customer is signing an agreement to contract for the supply of natural gas and/or electricity at a fixed price for up to five (5) years;• that the agreement is voluntary;• that the agreement does not guarantee savings to the customer; and• that they will receive a reaffirmation call in ten (10) to sixty (60) days to satisfy the Ontario Energy Board Act reaffirmation requirements. <p>The entire call is recorded and stored for a period of seven (7) years, regardless of whether the consumer ultimately becomes a customer of Summitt. If, during the quality sales assurance call, the CSR identifies an issue with the sale (e.g., the customer states that he or she thought the sales agent was from the utility), the CSR immediately advises the customer that Summitt cannot complete the agreement at that time.</p> <p>Summitt offered to arrange a confidential listening session for the OEB Compliance Staff if the OEB wished to verify Summitt's audio verification call files. The listening session was proposed as confidential as Summitt was cognizant of its contractual obligations of confidence and the consumer's rights of privacy.</p> <p>It was also proposed that a Compliance Specialist with experience in regulatory compliance will have direct oversight over the new sales quality assurance call process and will review no less than 20% of all such taped calls to verify whether the calls are being completed accurately and are appropriately logged as either approved or declined. It was proposed that this Compliance Specialist report directly into Summitt's Director of Compliance & Regulatory Affairs</p>			<p>Listening Session not requested by OEB Compliance Staff</p> <p>Summitt's began auditing 20% of the quality calls made on and after July 9, 2010.</p>

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2.	<p>CONSUMER COMPLAINT REPORTING</p> <p>As required by the OEB's Gas and Electricity Reporting and Record Keeping Requirements (Sections 2.2.1 and 4.2.1, respectively), Summitt maintains records of all written complaints received by it and made by consumers. Summitt retains all consumer complaints received by telephone, fax, email and mail in its customer service data base.</p> <p>In addition to all of its other reporting and record retention procedures, Summitt was already in the process of enhancing its complaint reporting system as follows:</p> <ol style="list-style-type: none"> 1. Classification of complaints into one of three (3) groups: <ol style="list-style-type: none"> (i) Agent Conduct, (ii) Contract Management; and (iii) Customer Service. <p>These categories were the then current categories used by the OEB in its quarterly web consumers' issues reports, and Summitt's move to adopting similar classifications was intended to provide a consistent framework by which comparisons might be made efficiently and effectively by Summitt; and</p> 2. Designing automated reporting mechanisms to report on the number, type and source of complaints. It was also contemplated that these reports would help Summitt to establish any applicable trends to these consumer complaints. Complaints that are received by Summitt are provided to the respective sales agency and the sales agent, and complaints are reviewed with each sales agency weekly. 	See letters from Cassels Brock & Blackwell LLP ("CBB"), counsel to Summitt, dated June 30 th , 2010 and July 7 th , 2010. See Tabs 3 and 4 of Compendium of Documents of Compliance Counsel dated September 7 th , 2010 and marked as Exhibit K.6.4	See Paragraph 593(k) on pages 201-202 of Closing Submissions of Summitt, dated September 20 th , 2010 (with the exception of the last full sentence thereof that was newly proposed in the Closing Submissions of Summitt).	<ol style="list-style-type: none"> 1. On October 18, 2010, Summitt, completed work on the system reporting of its complaints into the following three (3) groups: Agent Conduct, Contract Management and Customer Service. 2. As of the week of September 6, 2010, Summitt completed the automation of its agent complaint reporting system. On a weekly basis, sales agent receive a report entitled "Agent Point Report" which list, for all sales agents, the number and type of complaints receive, and the agents complaint to contract signed ratio.

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3.	<p>TRACKING AGENT COMPLAINTS</p> <p>A summary of the consumer complaint reports generated as set out in item 2 above was proposed to be provided to Summitt's senior management and to each sales agency monthly in an effort to track agent complaints.</p> <p>At the time, Summitt was developing two (2) standardized complaint reports which were proposed to be automatically generated by its database system:</p> <ol style="list-style-type: none"> 1. Report #1 proposed to provide a summary for each Sales Agency of the number and type of complaints broken down by sales agent (for a specified period). This report contemplated providing the number of complaints by grouping (as described in item 2 above) and the agent's complaint to contracts signed ratio. 2. Report #2 proposed to provide a summary of a specific sales agent's complaints broken down by month, again according to the nature of the complaints by grouping (as described in item 2 above). <p>It was proposed that complaints in the agent conduct category would be further defined by agent, the nature of the complaint and would include the agent's complaint history.</p> <p>Further, it was proposed that any agent complaint reports that identify a trend of alleged conduct that contravenes the Regulations or Code of Conduct would be acted on quickly and methodically by Summitt through a series of escalating measures, including the following:</p> <ol style="list-style-type: none"> 1, Retraining of the agent; 2. A fine levied and/or suspension of the agent; and 3. Termination of the agent. 	<p>See letters from Cassels Brock & Blackwell LLP ("CBB"), counsel to Summitt, dated June 30th, 2010 and July 7th, 2010. See Tabs 3 and 4 of Compendium of Documents of Compliance Counsel dated September 7th, 2010 and marked as Exhibit K.6.4</p>	<p>See Paragraph 593(i) on pages 202-204 of Closing Submissions of Summitt, dated September 20th, 2010.</p>	<p>As of the week of September 6, 2010, Summitt completed the automation of its agent complaint reporting system. On a weekly basis, sales agent receive a report entitled "Agent Point Report" which list, for all sales agents, the number and type of complaints receive, and the agents complaint to contract signed ratio.</p> <p>As of September 17, Summitt's management team was receiving, by automatic email distribution, the weekly sales agent complaint reports. The report entitled: "Agents Point Report" provides a list of all complaints received for all active and inactive agents.</p>

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4.	<p>SOLICITATION PROCEDURES AND PERFORMANCE</p> <p><u>Agreements</u></p> <p>Summitt proposed to amend the agreement it used for its natural gas and electricity protection plans to expressly provide:</p> <ul style="list-style-type: none"> the consumer with further disclosure that Summitt is not affiliated with any utility, the government or the Ontario Energy Board; the current pricing for the RPP for electricity; and an acknowledgement that the customer understands the agreement. <p>The agreement must be signed by the account holder or the spouse of the account holder in order for it to be considered binding. In addition, it was proposed that the terms and conditions of the underlying agreement be attached as part of the agreement itself as opposed to the former two document Registration Form and Terms and Conditions, and that the customer will be required to acknowledge that he or she had received a copy of the agreement incorporating the terms and conditions. A copy of the proposed form of all-in-one agreement was attached as Schedule "B" to the letter of June 30th, 2010 from Cassels Brock and Blackwell (on behalf of Summitt) to the OEB.</p>	<p>See letter from Cassels Brock & Blackwell LLP ("CBB"), counsel to Summitt, dated June 30th, 2010. See Tab 3 of Compendium of Documents of Compliance Counsel dated September 7th, 2010 and marked as Exhibit K.6.4</p>	<p>See Paragraph 593(f) on page 200 of Closing Submissions of Summitt, dated September 20th, 2010.</p>	<p><u>Agreements</u></p> <p>Effective June 29, 2010, Summitt launched a new Agreement form with the terms and conditions attached (the terms and conditions were previously a separate document).</p>

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	<p><u>Disclosure Form</u></p> <p>Summitt proposed to create a new plain language disclosure form that provides further information to the customer to ensure that the customer had a full understanding of the agreement. It was also proposed that the disclosure form be signed by the account holder or the spouse of the account holder at the time of sale and submitted to Summitt with the signed agreement in order for it to be an eligible binding agreement. Summitt further proposed that if the disclosure form is not submitted to Summitt with the signed agreement, and following the successful completion of the Sales Quality Assurance Call, the agreement will not be processed by Summitt. A copy of the new proposed disclosure form was attached as Schedule "C" to the letter of June 30th, 2010 from Cassels Brock and Blackwell (on behalf of Summitt) to the OEB and modified in the form attached as Exhibit "B" (modified as to format size and font size) to the letter of June 30th, 2010 from Cassels Brock and Blackwell (on behalf of Summitt) to the OEB.</p> <p><u>Sales Quality Assurance Call</u></p> <p>As described above, Summitt Energy has already implemented a Sales Quality Assurance Call at the time of each sale. All agreements must be supported by a positively conducted Sales Quality Assurance Call or the agreement will not be processed by Summitt Energy.</p>	<p>See letters from Cassels Brock & Blackwell LLP ("CBB"), counsel to Summitt, dated June 30th, 2010 and July 7th, 2010. See Tabs 3 and 4 of Compendium of Documents of Compliance Counsel dated September 7th, 2010 and marked as Exhibit K.6.4</p> <p>See letters from Cassels Brock & Blackwell LLP ("CBB"), counsel to Summitt, dated June 30th, 2010 and July 7th, 2010. See Tabs 3 and 4 of Compendium of Documents of Compliance Counsel dated September 7th, 2010 and marked as Exhibit K.6.4</p>	<p>See Paragraph 593(e) on pages 199 - 200 of Closing Submissions of Summitt, dated September 20th, 2010. (with the exception of the last full sentence thereof that was newly proposed in the Closing Submissions of Summitt)</p> <p>See Paragraph 593(c) on pages 198-199 of Closing Submissions of Summitt, dated September 20th, 2010.</p>	<p><u>Disclosure Form</u></p> <p>Effective June 29, 2010, Summitt launched a disclosure form which is a non-carbon replica (NCR) form, a copy of which is left with the Customer and a copy is submitted to Summitt Energy.</p> <p><u>Sales Quality Assurance Call</u></p> <p>Effective June 18th, 2010, Summitt commenced work on implementing a new point of sale quality assurance call. By June 28, 2010, all offices were introduced to the call and each sales agent was required to complete a QA call and the customer was required to positively affirm all points on the call in order for Summitt to proceed to the next stages of</p>

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	<p><u>Code of Conduct Training</u></p> <p>Summitt advised that its Director of Compliance & Regulatory Affairs was then conducting Code of Conduct training for all of its then 8 sales offices in Ontario which retail to small volume consumers. As of June 30, 2010, training for 3 offices has been completed and Summitt anticipated that it will be in a position to complete the training of all offices by no later than July 15, 2010. A copy of the entire Code of Conduct Presentation proposed for this training was attached as Schedule "D" to the letter of June 30th, 2010 from Cassels Brock and Blackwell (on behalf of Summitt) to the OEB.</p>	<p>See letter from Cassels Brock & Blackwell LLP ("CBB"), counsel to Summitt, dated June 30th, 2010. See Tab 3 of Compendium of Documents of Compliance Counsel dated September 7th, 2010 and marked as Exhibit K.6.4</p>	<p>See Paragraph 593(h) on page 201 of Closing Submissions of Summitt, dated September 20th, 2010 (with the exception of the last full sentence thereof that was newly proposed in the Closing Submissions of Summitt).</p>	<p>enrolment, including reaffirmation.</p> <p><u>Code of Conduct Training</u></p> <p>The Code of Conduct training was implemented on June 29, 2010 and completed on July 16th, 2010: The Senior Vice President of Sales & Marketing and the Director of Compliance & Regulatory Affairs completed code of conduct re-training for all active energy sales agents. All Representatives were required to sign-in for the training.</p>