



EB-2012-0278

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

AND IN THE MATTER OF a Notice of Intention to Make an
Order for Compliance and an Administrative Penalty against
Access Gas Services (Ontario) Inc., Licence Number GM-
2008-0415.

**NOTICE OF INTENTION TO MAKE AN ORDER FOR COMPLIANCE AND TO
IMPOSE AN ADMINISTRATIVE PENALTY UNDER s. 112.3 and s. 112.5 of the
*ONTARIO ENERGY BOARD ACT, 1998***

The Ontario Energy Board (the “Board”), on its own motion under section 112.2 of the Act, intends to make an Order under sections 112.3 and 112.5 of the Act requiring Access Gas Services (Ontario) Inc. (“Access Gas”) to comply with a number of enforceable provisions as defined in section 3 of the Act and to pay an administrative penalty in the amount of \$10,000 for breaches of enforceable provisions.

ALLEGATIONS OF NON COMPLIANCE

It is alleged that Access Gas has contravened section 18 of the *Energy Consumer Protection Act, 2010* (the “ECPA”), certain sections of Ontario Regulation 389/10, section 4.6(b) of the Code of Conduct for Gas Marketers and the requirements of sections 88.10(1) of the Act and 7(1)(3) of Ontario Regulation 200/02 as these sections read on December 31, 2010 and which sections continue to apply to contracts entered into before January 1, 2011 in accordance with section 31 of Ontario Regulation 389/10.

PARTICULARS

The particulars in support of the allegations set out in this Notice are as follows:

Transitional Requirements for Renewal Contracts

For the period of time for which the inspection was conducted, only one gas renewal transaction was completed. That gas renewal transaction was reviewed. Access Gas contravened the following requirements in relation to transitional requirements for renewal gas contracts:

1. The contract was not amended to give the consumer the right to cancel without cost or penalty if the supplier engages in an unfair practice; contrary to section 18 of the ECPA and section 16(1)(a) of Ontario Regulation 389/10.
2. The contract was not amended to give the consumer the right to cancel without cost or penalty if the supplier does something described in section 21(a) of Ontario Regulation 389/10; contrary to section 18 of the ECPA and section 16(1)(b) of Ontario Regulation 389/10.
3. The contract was not amended to give the consumer the right to cancel without cost or penalty if the consumer does something described in section 21(c) of Ontario Regulation 389/10; contrary to section 18 of the ECPA and section 16(1)(c) of Ontario Regulation 389/10.
4. The contract was not amended to give the consumer the right to cancel without any reason if the consumer gives the supplier 10 days notice; contrary to section 18 of the ECPA and section 16(1)(e) of Ontario Regulation 389/10.
5. The contract fails to state the licence number of Access Gas; contrary to the requirements of sections 88.10(1) of the Act and section 7(1)(3) of Ontario Regulation 200/02 as these sections read on December 31, 2010 and which sections continue to apply to contracts entered into before January 1, 2011 in accordance with section 31 of Ontario Regulation 389/10.

Price Comparisons

6. The renewal form, disclosure statement and price comparison was reviewed for the gas renewal transaction. The price comparison template was not completed in accordance with the Board's instructions as the marketer's offer in Part B of the price comparison template did not indicate whether the charge for transportation was the marketer's price or the utility price contrary to instruction number 1 of the Board's price comparison template; contrary to section 18 of the ECPA, sections 8(3)(a), 8(3)(c) and 15(1)(b)(ii) of Ontario Regulation 389/10 and section 4.6(b) of the Code of Conduct for Gas Marketers.

THEREFORE TAKE NOTICE that Access Gas may request, within fifteen days after receiving this Notice, that the Board hold a hearing on these matters. If no request for hearing is made within this time period, the Board may proceed to make an Order that Access Gas comply with any of the enforceable provisions listed in this Notice and that Access Gas pay an administrative penalty.

FURTHER TAKE NOTICE that if a hearing is requested, the Board is not bound by the above noted penalty and has discretion, upon finding a contravention(s) of the Act, to make any order it deems appropriate under sections 112.3, 112.4 and/or 112.5 of the Act. Access Gas is entitled to be present at the hearing with or without counsel and to adduce evidence and make submissions. Should Access Gas fail to attend, the hearing may be conducted in its absence and Access Gas will not be entitled to any further notice in the proceeding.

In order to respond to this Notice and request a hearing, Access Gas must file 3 copies of this request with the office of the Board Secretary at the following address:

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, Ontario
M4P 1E4
Attention: Board Secretary
Email: Boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273
Fax: 416-440-7656

If a hearing is requested it will proceed before a Panel of the Board, at the offices of the Ontario Energy Board, 2300 Yonge Street, Toronto, Ontario, on a date to be set by the Board.

DATED at Toronto, July 10, 2012

ONTARIO ENERGY BOARD

Original signed by

Rosemarie T. Leclair
Chair and CEO