



EB-2012-0281

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
Hudson Energy Canada Corp. ("Hudson Energy"), Licence
Numbers ER-2010-0223 and GM-2010-0224.

**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 Hudson Energy 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 \$11 000 for breaches of enforceable provisions.

ALLEGATIONS OF NON COMPLIANCE

It is alleged that Hudson Energy has contravened sections of Ontario Regulation 389/10 and sections of the Electricity Retailer Code of Conduct (the "Code").

PARTICULARS

Only electricity contracts were reviewed in this inspection. The particulars in support of the allegations set out in this Notice are as follows:

Record Retention for Verification Representatives

1. Although Hudson currently has a process to retain verification representative's information, including test questions and answers for a period of two years, Hudson did not retain this specific information prior to the fall of 2011. This is contrary to section 5.10(f) of the Code.

Alteration of Price Comparison

Twenty-one Electricity Price Comparisons were reviewed as part of the Phase 2 Inspection related to verification transactions.

2. In all 21 verification transactions, the date at the top of the Board Approved Electricity Price Comparisons had been altered in Part A. This is a breach of section 8(3)(c) of Ontario Regulation 389/10 and section 4.6(a) of the Code because the Electricity Price Comparisons were not presented in the form or manner and under the circumstances, if any, as may be required by a code, order or rule issued or made by the Board.

Verification Calls - Use of the applicable Board-approved Verification Script

3. Of the 21 verification transactions reviewed, there were 16 positively verified calls. Board staff observed that the verification representative deviated from the electricity script in the following cases:
 - (a) For sample 1, the verification representative did not verify items 20 and 25 of the script. In addition, the call occurred outside the 10 to 45 day period for verification calls.
 - (b) For sample 2, the verification representative did not verify items 9 and 20 of the script. In addition, there was a second call to complete the verification that took place outside the 10 to 45 day period for verification calls.
 - (c) For sample 3, the verification representative did not verify items 13 and 25 of the script.
 - (d) For sample 4, the verification representative did not verify items 13, 20 and 17 of the script.

- (e) For sample 6, the verification representative did not verify items 9, 13, 17 and 20 of the script.
 - (f) For sample 7, the verification representative did not verify items 13, 20 and 25 of the script.
 - (g) For sample 9, the verification representative did not verify items 13, 17, 20 and 25 of the script.
 - (h) For sample 10, the verification representative did not verify items 13, 17 and 25 of the script.
 - (i) For sample 12, the verification representative did not verify items 13, 17, 20 and 24 of the script.
 - (j) For sample 13, the verification representative did not verify items 3, 13, 16, 17 and 20 of the script.
 - (k) For sample 15, the verification representative did not verify items 6, 10, 11, 13, 17 and 20 of the script. In addition, there was a second call to complete the verification that took place outside the 10 – 45 day period for verification calls.
 - (l) For sample 16, the verification representative did not verify items 3, 4, 5, 6, 7, 8, 10, 12, 13, 14, 15, 16, 1, 18, 19, 20, 21, 22, 23, 24 and 25 of the script.
 - (m) For sample 17, the verification representative did not verify items 13, 17 and 20 of the script.
 - (n) For sample 18, the verification representative did not verify items 13, 17 and 20 of the script.
 - (o) For sample 19, verification representative did not verify items 3, 5, 6, 7, 8, 10, 12, 15, 16, 1, 18, 19, 20, 21, 22, 23, 24 and 25 of the script.
 - (p) For sample 21, the verification representative did not verify item 20 of the verification script.
4. Of 16 positively verified calls, the electricity verification script was not followed in all 16 positively verified calls. In some cases, a second call was executed in an attempt to complete the verification script. (6 verifications had a subsequent call to the consumer to continue the verification call). The above allegations are contrary to section 13(2) of the Ontario Regulation 389/10 and sections 4.10 and 4.11(a) of the Code.
5. Of the 16 positively verified calls noted above, there were 5 contracts that were for multiple locations and Hudson Energy executed only one verification call to

include both locations and there was only one price comparison provided. This is contrary to section 13(2) of the Ontario Regulation 389/10 and sections 4.10 and 4.11(a) of the Code.

6. Of the 16 positively verified calls noted above, 1 call occurred after the 45 day window and therefore did not meet the requirement for contracts to be verified no earlier than the 10th day and no later than the 45th day after the day on which a text based contract is delivered or provided to the consumer. This is contrary to section 13(4) of Ontario Regulation 389/10.
7. A valid verification call was not completed for 15 of the calls. Hudson Energy did not properly submit a request to an electricity distributor for a change of electricity supply to that retailer or supply electricity to a low volume consumer under a contract to which verification applies. This is contrary to section 3.3(e) of the Code. One positively verified call never flowed with Hudson Energy so although there were 16 positively verified calls in the sample only 15 were transferred to be supplied by Hudson Energy.

THEREFORE TAKE NOTICE that Hudson Energy 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 Hudson Energy comply with any of the enforceable provisions listed in this Notice, and that Hudson Energy 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 s. 112.3, 112.4 and/or 112.5 of the Act. Hudson Energy is entitled to be present at the hearing with or without counsel and to adduce evidence and make submissions. Should Hudson Energy fail to attend, the hearing may be conducted in its absence and Hudson Energy will not be entitled to any further notice in the proceeding.

In order to respond to this Notice and request a hearing, Hudson Energy 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 ON 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