

From: [BoardSec](#)
To: [MaryAnne Aldred](#); [Batul Rahimtoola](#)
Cc: [Viive Sawler](#); [Irina Kuznetsova](#); [Kirsten Walli](#)
Subject: TRIM: MOTION filed - EB-2013-0299 - no attachment - see text below. FW: Appeal<eom>
Date: November 29, 2013 9:37:11 AM

From: Gary Lang [mailto:garylang2@sympatico.ca]
Sent: November-28-13 6:57 PM
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Subject: FW: Appeal

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To: batul.rahimtoola@ontarioenergyboard.ca; boardsec@oeb.gov.on.ca;
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Subject: Appeal
Date: Thu, 28 Nov 2013 23:50:35 +0000

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To the OEB
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Subject: file number EB-2013-0299 in the matter of the OEB DECISION AND ORDER on
November 7, 2013. that grants Carma Industries Inc. a Unit Sub-metering license.

Dear OEB

Please excuse, my inept and rushed submission.

As a person directly affected by an order made by an employee of the Board,

I respectfully lodge an appeal, and a motion requesting the Board to review all or part of the
decision, and to vary the decision.

I ask that the OEB to consider the appeal on a question of law that is in the public interest.

Carma's interpretation of the ECPA grants them the right to profit from consumers without
consent, and gives condo directors unfettered signing authority, this is contestable. Carma's
enforcement of third party electricity contracts controlling consumers access to supply of a

public utility without legal authorization begs examination. See NOTE *1

The question of law will significantly affect condominium owners rights regarding: Agreements with power utilities, Competitive access to transmission lines, Benefits and costs for common & shared services, And help to define prerequisites circumstances before individual billing under section 2010, c. 8, s. 34 (4) of the ECPA.

Clarification may prevent unjust discriminatory implied third party unit billing, and the essential conditions relating to energy efficiency & conservation before unit metering can be offered.

The main legislative conflict with Carma is Who is the condominiums authorized Exempt Distributor? OEB licensed Sub-metering providers have a reasonable duty of due diligence to insure they are contracting with a body or person that has the legal authority and capacity to do so.

Looking at this issue will define future sub-metering of older Condos and help set guidelines for the Lieutenant Governor in Council to make new regulations for the Energy Consumer Protection Act, such as, the proper legal procedures for disclosure and informed consent when unit metering, the rights and obligations of contracting parties with prior hydro agreements for the supply of a public utility, the unlicensed use of consumers past embedded hydro funds, collected by condo boards and not rebated.

I believe from Carma's own documents:

That there is enough evidence to show that Carma is not in compliance with it's obligations, Carma's license and relevant legal requirements for : Contracting, Installing and Billing at 75 Ellen St. Barrie Ont. Simcoe Condominium Corporation #171

Authorized consent is required under the Energy Consumer Protection Act for prior occupied units before installation, in accordance with the Condominium Act, section 97 which is specific that, Two thirds of the Corporations membership must be in favour of a substantial change.

Carma's representatives misinformed and persuaded the Condominium corporations directors of S.C.C. # 171, that they could sign Carma's contract agreement without the required approval of the Condominium membership.

Carma by going behind the owners backs has contravene and subverted condo members transmission and supply rights.

Any substantial decisions must be approved by the cooperation owners. Carma has no right to subject owners to Disconnection or to download distribution and hydro costs to units, or to remove the all inclusive benefits from owners registered Title / Deed and prior agreement, (made under the public utilities Act).

Carma has forced Condominium owners under duress of disconnection, to give-in and purchase Carma's products, meters and services and to pay disproportional heating and cooling costs,

Carma is thereby imposing unjust and unreasonable financial hardship on Condominium residents.

Carma knew unit metering is not mandatory for our building, hydro and all its associated services is a guaranteed service cost owners pay in the condo fees, budgeted yearly even before the Declaration was registered. Carma has acted as if they had the authority under the ECPA and their OEB licence to trump the owners consent.

Installing unit Sub-metering into 175 electrically heated units of a old poorly insulated building is not an effective method of energy conservation, it is not cost-effective,

There are three basic requirements and prerequisites for unit metering and billing within the our present legislation. To Carma these are not clearly evident, none the less they are there ! and unmistakeably there to protect the consumer !

1. Multi-residential building and units must first be tested by an energy audit, any deficiency's rectified, bring the building up to present day energy code standards.
2. Fair and equitable hydro compensation formula must be calculated, presented and included in any agreement for the unit owners benefit when switching to individually billing, (following the same standards as under the Residential Tenancies Act, 2006). A prudence review must consider all unit's efficiency circumstances, consider past usage or percentage contributions, as well shared rebate benefits from shared common element costs.
3. The process of a legally binding agreement must be followed, disclosure of costs, with notification to all future invoiced parties, particularly the corporation's owners, which are the only legally authorized decision making party defined under the Condominium Act. I request that the OEB examine all Carma's condo enrolment forms, to show that Carma did not have majority signed consent before installing in November 2011.

I contend that Carma does not have the legal jurisdiction under their OEB license or the privacy Act to monitor or bill non-contracting owners.

Carma became the only option for owners as individual hydro purchasers removing owners option to select an alternative supplier for electricity metering. Carma becomes the electricity supplying monopoly retailer with no competition allowed. **pushing customers into the retail market.**

Facts

Over 112 owners and many more residents signed a Plebiscite against sub metering.
Only 3 owner signed a Plebiscite for sub metering.
From 175 units.
What kind of influence did Carma exert on the condo directors?

Carma is making a profit from leasing / selling their manufactured sub-metering equipment, also from installing, selling monitoring software and hardware,

The overwhelming majority of the invoiced Condominium consumers did NOT want Carma's

services.

Carma did not seek to make contracts with the invoiced Condominium residents.

indenturing owners, and enriching Carma.

Carma is billing the costs of producing their services, metering products, including a return on invested capital, invoiced back to residents.

Carma's disregard of due diligence and propagation of a false premisses, resulted in a unauthorized decision that benefited Carma and resulted in a loss to the corporation owners.

OEB Jurisdiction

1 . (1) The Board, in carrying out its responsibilities under this or any other Act in relation to electricity, shall be guided by the following objectives:

1. To protect the interests of consumers with respect to prices and the adequacy, reliability and quality

of electricity service.

2. To promote economic efficiency and cost effectiveness in the transmission, distribution, sale of electricity.

3. having regard to the consumer's economic circumstances

The OEB as the licensing body of unit Sub-metering Providers is empowered to regulate and insure compliance with the codes, rules and conformity with relevant legislation.

to protect the interests of consumers with respect to price and the adequacy, reliability and quality of electricity service – and insure compliance with Services Agreement, the terms of which may be reviewed by the Board to ensure compliance with its Codes, regardless of where consumers decide to live.

21 . (1) The Board may at any time on its own motion and without a hearing give directions or require

the preparation of evidence incidental to the exercise of the powers conferred upon the Board by this or

any other Act. 1998, c. 15, Sched. B, s. 21 (1).

Evidence that indicates Carma has contravene its regulatory obligations.

I request that the OEB consider the past practices of Carma regarding their installation of smart unit metering systems, installations made without proper consent or knowledge of residents.

Carma's unfair billing regarding a smart metering systems that were installed in other buildings.

Their ignoring prohibitions on discretionary metering under Section 53.18 of the EA for meters installed in 1297 Marlborough Court, Oakville, Ontario, L6H 2S1, owned by CAP REIT.

Ontario Regulation 161/99 states that a distributor in a Condominium “who distributes electricity for a price no greater than that required to recover all reasonable costs “. In its decision RP-2003-0044 the

Board subsequently determined that distributors (including exempt distributors) must not impose upon consumers a price which includes a profit. I submit that this regulation provides the Board with the jurisdiction to review the invoice hydro purchaser's billing contract with Condominium Corporation and Carma.

The OEB has jurisdiction to review Carma's imposed billing, implemented through Carma's Conditions of Services, their agreement with the Condominium directors and Carma's enrolment forms, most dated after the unit metering installation under duress, which can not constitute owner majority consent.

The OEB has jurisdiction to review a corporate entity that owns or operates transmission or distribution facilities for compensation.

The Bulk Billing includes the common elements, Carma estimated this is 25 percent of the bulk Bill.

Carma as an independent collection agent has over collected the true costs of Hydro from owners,

Carma has collected more funds in total from owners than the LD's Bulk Bill in some months.

There are no shown figures for the buildings common elements hydro usage for the 2012 year.

just the amount for January which was not sub-metered.

The Hydro funds that are over collected from owners and some renters by Carma, are transferred to the

General Operating Fund or the Reserve Fund, The funds are not held in trust, They are not used to reduce Hydro costs for residents, Many residents subjected to huge heating and AC (costs due to their units location) move out, their home value diminished, These residents subjected to unreleasable costs will never recover any funds from Carma's over-billing and Carma's imposed unit metering of a building that does not meet the standard.

In rental buildings Hydro funds collect within a tenants rent for the unit (except for heating) must be calculated and discounted from rent when unit metering is consented to.

A OEB sub-metering licence does not grant the sub-metering provider like Carma to remove competitive services from consumers arbitrarily.

The OEB has authority to assert jurisdiction over transmission involving unbundled retail sales

Competitive services for electricity are all business activities than distribution, transmission and providing Standard Supply Service.

The Board also monitors markets in the electricity sector and reports to the Minister of Energy on the efficiency, fairness and transparency and competitiveness of the markets as well as reporting on any abuse or potential abuse of market power.

The OEB has indicated in pass orders that unit metering concerns should be look into.

The broader issues around hydro billing and exempt distributors

Submetering applicants should expect more rigorous **review**.

The ECPA

Contract Requirements

The ECPA establishes strict contract requirements,

Verification of the Contract

In almost all cases, the ECPA requires that a re-billing contract must be verified in order to bind the consumer:

Cancellation Rights

The ECPA allows a consumer to cancel a re-billing contract:

Unfair Practices under the Consumer Protection Act

EB-2009-0111

THE BOARD THEREFORE ORDERS THAT:

Each valid smart sub-metering licence is amended to reflect the provisions of the ECPA, its associated regulation in relation to unit sub-metering, and the OCEBA. The amended template for the Unit Sub-Metering Licence is attached to this Decision and Order.

DATED at Toronto, January 18, 2011

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli

Board Secretary

It should be noted that in many instances existing residents have not consented to the assumption of responsibility for electricity charges.

the SSWG believe Leases that contain such clauses are and should remain valid

It should be noted that SSM Providers must, as a condition of their licence, comply with the SSM Code.

LDCs, as a condition of their licence, must comply with the DSC.

The OEB, through conditions of licence and service, have the capacity for enforcement and Compliance regulations.

It is certainly open to the OEB to amend the licences of SSM providers and LDCs to require compliance with a Code of Conduct which includes appropriate consumer protections for hydro purchasers. for public interest and to improve true conservation.

By then making the use of a condition of licencing,

The OEB could restrict discretionary metering activities within the bounds of contract law.

It is not a buyer beware issue, older residents are being given no alternate or competitive choice, they must pay, or move out, or beg a social agency, or face disconnection.

all impositions effecting the residents personal privacy.

Is it morally correct that prior owners are deemed to have assumed responsibility for their units' electricity charges upon billing, and that a sub-metering providers implied contract is deemed valid upon payment of the sub metering bill irregardless..

An OEB spokesperson said the agency always advises the consumer “to pay their bill, and then resolve any disputes afterwards.”

If the OEB claims no jurisdiction who will resolve the disputes

If you twist their arm far enough, of course they will consent.”

Quote

Accordingly, the SSMWG ,

"consumers will benefit by then being eligible to apply for financial assistance."

"it is important to recognize that the authorizations which the SSMWG supports being granted to exempt distributors extends only to situations where a tenant consents."

"Smart sub-metering of bulk metered buildings will allow low income consumers to seek LEAP financial assistance"

"Accordingly, to the extent that any legal impediment on such activities is believed to exist, it is in the public interest to grant the authorizations requested by the SSMWG"

1.7 Contract with a Prescribed Location

1.7.1 A smart sub-metering provider shall not undertake any prescribed activity in a prescribed location unless the smart sub-metering provider has a contract with the Condominium corporation or developer to do so.

3 STANDARDS OF BUSINESS PRACTICE AND CONDUCT

3.1 Disclosure of Agreements and Disclosure in Agreements

A smart sub-metering provider shall not disconnect consumers for non-payment of bills unless the Condominium corporation or developer, or landlord has contracted the smart sub-metering provider to do so on its behalf.

PRESCRIBED CONTRACTS RE SECTIONS 78.3 AND 78.4 OF THE ACT

Procurement for Energy Conservation Advertisements

In its decision RP-2003-0044 the OEB determined that distributors must not impose upon consumers a price which includes a profit.

I submit that regulation do provide the OEB with the jurisdiction to review the sub-metering contract and billing of owners

From the unit sub-metering code:

1.7 Contract with a Prescribed Location

1.7.1 A smart sub-metering provider shall not undertake any prescribed activity in a prescribed location unless the smart sub-metering provider has a contract with the

Condominium

corporation or developer to do so.

Condominium corporation = Owners

(g.5) governing the approving or fixing under section 78 of just and reasonable rates for the retailing of electricity in order to meet a distributor's obligations under section 29 of the Electricity Act, 1998, including prescribing methods of and procedures for approving or fixing rates, including requiring persons licensed under this Part to participate in those methods and procedures and to enter into contracts or other arrangements as part of those methods and procedures;

Abuse of market power

(5) Without limiting the generality of subsection (1), a licence to engage in an activity described in clause 57(c), (d) or (f) may contain conditions to address the abuse or possible abuse of market power, including conditions,

(a) establishing minimum and maximum prices or a range of prices at which electricity may be offered for sale or sold through the IESO-administered markets or directly to another person or class of persons;

(b) restricting the duration of contracts between licensees and any other person; and

(c) restricting significant investment in or acquisition of generation facilities located in Ontario. 1998, c. 15, Sched. B, s. 70 (5); 2004, c. 23, Sched. B, s. 11 (4).

Ontario Energy Board Act, 1998

57 - Requirement to hold license

Electricity Act, 1998 unless licensed to do so under this Part and no other person shall, unless licensed to do so under this Part,

...

(f) sell electricity or ancillary services through the IESO-administered markets or directly to another person, other than a consumer;

88.3 - Powers of audit

Powers of audit

(1) The Board may appoint a person who meets the criteria as may be prescribed by regulation to audit the compliance of a gas marketer or retailer of electricity or its agents or employees with the requirements of,

(a) any condition of a licence referred to in section 48 or 57; or

When a suite meter provider enters into a procurement process, contract or arrangement in relation to suite metering, the procurement process, contract or arrangement shall meet any criteria or requirements that may be prescribed by regulation or mandated by a code issued by the Board or by an order of the Board. 2010, c. 8, s. 32 (5).

The OEB does have jurisdiction to grant the equitable remedy of restitution in favor of complainants.

the Board had express authority under s.112.3 of the Act to "remedy a contravention" of any of the enforceable provisions

Supreme Court of Canada decision of *Royal Oak Mines Inc. v Canada (Labour Relations Board)*⁶ to hold that section 112.3(1)(a) of the Act gave it the jurisdiction to order an equitable remedy

An "enforceable provision" is defined to include a provision of the Act or its regulations, certain provisions of the *Energy Consumer Protection Act, 2010*, a provision of the *Ontario Clean Energy Benefit Act, 2010*, the regulations made under these statutes, and other statutory provisions, licensing provisions and board orders.

Sub-metering providers should be sanctioned when they ignore Ontario's prescribed guidelines, codes and regulations, which were place in legislation to protect consumers,.

*NOTE *1*

My contention is the ECPA does not give the Condominium directors the authority to bypass the 1980 Condominium Act, which our building was registered under,

Carma's V.P. Ms Williams disagrees.

She believes that individual consent is,

Overruled by Energy Consumer Protection Act, 2010, section 33 (3), section 34 (5)

Ontario Regulation 389/10 item 3 in column 1 of section 38 (1)

Installation of suite meters permitted

[33.\(1\)](#)A suite meter provider **may**, in such circumstances as **may** be prescribed and subject to such conditions as **may** be prescribed, install a suite meter in such properties or classes of properties as **may** be prescribed and for such consumers or classes of consumers as **may** be prescribed. 2010, c.8, s.33 (1).

Installation of suite meters *required*

[\(2\)](#)Such persons or classes of persons **as may be prescribed** shall, in such circumstances as may be prescribed and **subject to such conditions as may be prescribed**, have a suite meter installed by a suite meter provider in such properties or classes of properties as may be prescribed and for such consumers or classes of consumers as may be prescribed. 2010, c.8, s.33 (2).

** 33(2) does not apply to our condo. but note the term "[subject to such conditions as may be prescribed](#) "*

Same, Condominiums

[\(3\)](#)The provisions of subsections (1) and (2) apply despite a registered declaration made in accordance with the [Condominium Act, 1998](#), if a suite meter is installed in accordance with this section in respect of a unit of a Condominium. 2010, c.8, s.33 (3).

** **33(3) Does not overrule the [Condominium Act, 1998 or 1980](#) only that provisions apply, the provisions for consumer protection could be insulation [conditions, or provisions that units](#) have more than one source of heating before they can be billed for electricity.***

Use of suite meters for billing permitted

[34.\(1\)](#)Subject to subsection (6), if a suite meter is installed in [accordance with section 33](#) or in such circumstances as may be prescribed in respect of a unit of a prescribed class of properties, a suite meter provider [may](#), in the prescribed circumstances, [subject to the prescribed conditions](#) and [for the prescribed consumers](#) or prescribed classes of consumers, bill the consumer based on the consumption or use of electricity by the consumer in respect of the unit as measured by the suite meter. 2010, c.8, s.34 (1).

Use of meters for billing required

[\(2\)](#)Subject to subsection (6), if a suite meter is installed in accordance with section 33 in respect of a unit of a prescribed class of properties, a suite meter provider shall, in the prescribed circumstances and subject to the prescribed conditions, and for the prescribed consumers or prescribed classes of consumers, bill the consumer based on the consumption or use of electricity by the consumer in respect of the unit as measured by the suite meter. 2010, c.8, s.34 (2).

Use of meters prohibited

[\(3\)](#)Except as provided in subsections (1) and (2), no person shall bill a prescribed class of consumers for electricity consumed in a unit of a prescribed class of properties as measured by a suite meter. 2010, c.8, s.34 (3).

Energy efficiency, etc.

[\(4\)](#)For the purposes of subsections (1) and (2), prescribed circumstances or prescribed conditions may include, but are not limited to, circumstances or conditions relating to [energy efficiency](#), energy conservation or meter functionality. 2010, c.8, s.34 (4).

Billing is illegal. Mainly because SCC#171 has not met the [prescribed conditions of energy efficiency](#) standards.

Carma did not inspect the walls , PowerStream said they would in Jan of 2011, a free energy audit to insure fair unit metering, and would only sub-meter after majority approval of their metering package.

Priority over registered declaration

(5) Subsections (1) and (2) apply in priority to any registered declaration made in accordance with the *Condominium Act, 1998* or any by-law made by a Condominium corporation registered in accordance with that Act and shall take priority over the declaration or by-law to the extent of any conflict or inconsistency, if a suite meter is installed in accordance with section 33 in respect of a unit of a Condominium. 2010, c.8, s.34 (5).

Requirement to provide information

(6) If a suite meter is installed in accordance with section 33 in respect of a unit of a prescribed class of properties for a prescribed class of consumers, the suite meter provider or such other persons or class of persons as may be prescribed shall, in the prescribed circumstances, provide the consumer or such other persons or class of persons as may be prescribed with such information as may be prescribed, at such time as may be prescribed, presented in such form and manner as may be prescribed. 2010, c.8, s.34 (6).

* "*to the extent of any conflict or inconsistency*" this can not apply because there is no *conflict or inconsistency* in our declaration !

* "*installed in accordance with section 33*" means

if the building is fixed and the membership has voted...

*SCC171 was not **prescribed** under law to install unit meters.*

Installation of suite meters is not required by any Act, for SCC #171 circumstances.

Carma install, financially damaging 33% of owners, and just hurting the rest.

Requirement to provide information

provide the consumer or such other persons or class of persons as may be prescribed with such information as may be prescribed

Owners ask for more information, Conditions of Service *installation costs* ...

According to the property management,

Carma never gave the corporation any *information, except for the Contract*,

which owners were not permitted to view until two months after the directors signed it.

Ontario Regulation 389/10 item 3 in column 1 of section 38 (1)

When installation of suite meters permitted

38.(1) Subject to subsection (2), and *except as otherwise provided in section 39*, for the purpose of subsection 33 (1) of the Act, *a suite meter provider may install a suite meter for a unit in a class of units in Column 2 of the following Table at any time during construction or after in the circumstances set out in Column 3 opposite the class of units.*

(2) Despite subsection (1), a suite meter provider shall not install a suite meter for a rental unit that is occupied by a tenant unless the installation is conducted in accordance with clause 137 (2) (b) of the *Residential Tenancies Act, 2006*.

**38(1) says suite meter provider may not shall.*

I agree, suite metering providers may, after an energy audit shows billing to be fair and owners have given informed consent with full disclosure of costs.

Note **except as otherwise provided in section 39*

Section 39 states Installation must take place in the Condominium unit before the Condominium unit is occupied.

section 39 is referenced just as 38(2) to protect existing residents.

Within the Table item 3 in column 1 it says

"With the approval of the Condominium corporation's board of directors, the Condominium corporation or other person in charge of the Condominium building has retained the suite meter provider to install suite meters in the Condominium building."

**Nowhere does it say the corporation's board of directors has the power to overrule, bypass, ignore the Condominium Act, which is specific on owners voting 66.6 percentage for consent.*

Nowhere does it say the corporation's board of directors has the power to overrule Contract Law andtittle, deed, bill of sale,.... owners agreement with the Barrie utility commission= Powerstream.

Section 38(2) is tenant protection, with a rebate or compensation formula built into the RTA "unless the installation is conducted in accordance with clause 137 (2) (b) of the Residential Tenancies Act, 2006. "

Use of meters for billing purposes in new and existing buildings

40.(1) No person shall bill a consumer based on the consumption or use of electricity by the consumer in respect of a unit as measured by a suite meter except in accordance with the Act, the *Ontario Energy Board Act, 1998*, the *Electricity Act, 1998*, this Part and any applicable code or order issued by the Board.

3) A suite meter provider shall not bill an occupant of a rental unit or a member unit based on the consumption or use of electricity by the occupant in respect of the unit, as measured by a suite meter, if,

(a) the suite meter was installed after the day this section comes into force but is not deemed under subsection 43 (2) to have been installed after the day this section comes into force;

(b) the unit is heated primarily by electricity; and

(c) the electricity measured by the suite meter includes the electricity used in heating the

unit.

Residential complexes and Condominium buildings

42.(1) Subsection 39 (1) applies to a residential complex or Condominium building for which a permit under section 8 of the *Building Code Act, 1992* was issued on or after January 1, 2011 for the original installation or erection of the residential complex or Condominium building.

(2) Without limiting the generality of subsection (1), if a residential complex or Condominium corporation is substantially extended, materially altered or repaired to the extent that it is considered to be newly erected or installed, the extension, material alteration or repair is considered to be an original installation or erection for the purposes of subsection (1).

Smart meters and smart sub-meters

43.(1) In this section,

“excluded unit sub-meter” means a smart sub-metering system, equipment and technology and any associated equipment, system and technology installed before the day this section comes into force, other than a specified unit sub-meter;

“licensed distributor” means a distributor licensed under Part V of the *Ontario Energy Board Act, 1998* as required under clause 57 (a) of that Act;

“specified unit smart meter” includes any smart meter system equipment and technology and any associated equipment, system, and technology installed in a multi-unit complex by a licensed distributor,

(a) before November 3, 2005,

(b) pursuant to section 53.16 of the *Electricity Act, 1998*,

(c) pursuant to section 53.17 of the *Electricity Act, 1998*, as that section read on December 31, 2010, or

(d) pursuant to a regulation made under clause 53.21 (1) (q) of the *Electricity Act, 1998* authorizing activities as discretionary metering activities for the purposes of section 53.18 of that Act;

“specified unit sub-meter” includes a smart sub-metering system, equipment and technology and any associated equipment, system and technology installed in a multi-unit complex,

(a) before November 3, 2005,

(b) pursuant to section 53.17 of the *Electricity Act, 1998*, as that section read on December 31, 2010,

(c) pursuant to a regulation made under clause 53.21 (1) (q) of the *Electricity Act, 1998* authorizing activities as discretionary metering activities for the purposes of section 53.18 of that Act, or

(d) in accordance with a code or order issued by the Board.

(2) Every specified unit smart meter, specified unit sub-meter and excluded unit sub-meter installed before the day this section comes into force is deemed for the purposes of Part III

of the Act to be a suite meter installed in accordance with section 33 of the Act and this Part.

(3) Every specified unit smart meter and specified unit sub-meter may be used to bill a consumer under subsection 34 (1) of the Act if, at the time this section comes into force, the meter was being used to bill a consumer in accordance with,

(a) the *Electricity Act, 1998* or the *Residential Tenancies Act, 2006*; or

(b) an order or code issued by the Board.

(4) Every excluded unit sub-meter installed before the day this section comes into force may be used to bill a member of a class of consumers described in Column 2 of the Table set out in subsection 40 (2), based on the consumption or use of electricity in respect of a unit described in Column 3 opposite the class of consumers, as measured by a suite meter, in the circumstances described in Column 4 opposite the class of consumers.

PART III

COMMENCEMENT

Commencement

44. This Regulation comes into force on the later of January 1, 2011 and the day it is filed.

** After January 1, 2011 there was NO plausible grounds for Carma to bypass owners consent.*

Application, section 34 8. (1) Despite any other provision of this regulation, section 34 of the Act shall

immediately apply to a unit smart meter or unit sub-meter referred to in section 7 (2), that is continued under that subsection as a suite meter installed in a unit under section 33 of this Act, when a prior consumer ceases to have occupancy rights in relation to the unit.

“prior consumer” means a consumer who was permitted to occupy the unit prior to the date this regulation comes into force

Mailing address

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Tel: 1-888-298-3336 or 416 260 4264 V.P. Shannon Williams Ext 241 Fax 1 866-577-1224

info@Carmaindustries.com Website: www.Carmaindustries.com

for 65 & 75 Ellen Street:

Board of Directors of Simcoe Condominium Corporation (S.C.C. # 171) and Samuel Property Management. 65 Ellen Street, P.O. Box A, Barrie , Ontario L4N 3A5. Email

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705 721-9638. Fax 705-721-8137

Case law

If a condominium corporation enters into a contract that does not comply in form and substance with the requirements of the enabling legislation, then the contract is void.

See: Noldon Investments Ltd. (1977), 1 R.P.R. 236 (Ont. H.C.J.); Condominium Plan No. 8222909 v. Francis, [2003] A.J. No. 976

(C.A.); *Strata Plan 1261 v. 360204 B.C. Ltd.*, [1995] B.C.J. No. 2761 (B.C.S.C.).

University of Toronto Department of Economics Working Paper 407
The Impact of Sub-Metering on Condominium Electricity Demand
By Donald N. Dewees and Trevor Tombe July 13, 2010
Found that "private benefits to the residents are negative."

Definitions

Definition, "unit sub-metering" (5) For the purposes of the definition of "unit sub-metering" prescribed activities are, (a)the commercial offering or the commercial provision of unit sub-meters

for multi-unit complexes in which the electricity is not distributed by the person making the offering or provision, and associated activities like billing and collecting payment in respect of the electricity consumed, and

(b)any other activities required to be carried out by a unit sub-meter provider under Part III of the Act.

"Condominium corporation" means a corporation as defined in the Condominium Act, 1998;

"unit smart meter provider" means a distributor licensed by the Board to engage in unit smart metering;

"unit sub-meter" means a unit meter that is installed by a unit sub-meter provider in a unit of a multi-unit complex where the multi-unit complex is connected to a bulk meter, and includes such other meters as may be prescribed; ("compteur divisionnaire d'unité")

"unit sub-metering" means such activities in relation to unit sub-meters in multi-unit complexes as may be prescribed, under such circumstances as may be prescribed, for such classes of property or classes of consumers as may be prescribed, subject to such conditions as may be prescribed;

"unit sub-meter provider" means a person, including a distributor, licensed by the Board to engage in unit sub-metering, or such other persons or classes of persons as may be prescribed. 2010, c. 8, s.

"commodity price" means the commodity price for electricity referred to in section 2 of Ontario Regulation 275/04 (Information on Invoices to Low-Volume Consumers of Electricity) made under the Ontario Energy Board Act, 1998.

Respectfully submitted

Sincerely Gerhard Langematz Nov 28 2013

