

FRASER ENERGY CONSULTING INC.

November 19, 2014
Via Email and Fax

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Ontario Energy Board
P.O. Box 2319,
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Attn: Ms. Kirsten Walli,
Board Secretary

Re: *Energy Consumer Protection Act, 2010* Review EB-2014-0158

On behalf of Ag Energy Co-operative, I am attaching the written comments to the questions set out in Appendix A of the Board's October 23, 2014 letter. The comments are included following each question as set out by the Board. I will be attending the Stakeholder Forum on December 8th and 9th on behalf of Ag Energy and look forward to further discussions on the issues at that time.

Thank-you.

Sincerely,



Bruce Fraser
President
Fraser Energy Consulting Inc.

Ag Energy Co-operative Comments on the ECPA Initiative

1. What are the hallmarks of effective consumer protection legislation against which the ECPA should be assessed?

Hallmarks of any GREAT program/legislation are ease of use for all stakeholders and timely information. Further, legislation that protects in the intent that is created is best.

Remedies that are simple and easy to execute are also imperative. Specific to the ECPA, a most important element is the aspect of complaints, investigation and then the formalization. That protection and fair voice for all stakeholders is important.

2. Is the ECPA providing an appropriate level of protection for Ontario's low-volume energy consumers? Please explain why.

In our humble opinion, the pendulum has swung too much in the restrictive side and the administrative burden for retailers is huge. That said, the unfair practices and complaints should continue to be the focus but why burden the entire supply system when only 20% of entities at best are true offenders?

3. What specific aspects of the ECPA are working well in terms of consumer protection? Please explain why and in what way you believe they are working well.

In 2010, the Ontario Energy Board implemented an Act called the Energy Consumer Protection Act (i.e. ECPA). The purpose of the Act was and is to protect residential and small consumers from "high pressure" sales tactics or from bad business practices from energy retailers or marketers of natural gas or electricity. We believe that this protection is important and necessary.

The ability for complaints to be provided and adjudicated is working well.

There are many opportunities for improvement and streamlining of the ECPA process would be ideal. This limits the available options to consumers and businesses alike by tightening the landscape to larger energy retail or marketing participants. The cost to serve has inherently increased and somewhere that burden will be addressed in the system. The cost to serve is also something that ripples through the OEB as there are administrative costs that need to be allocated to monitor and enforce the legislation.

4. What specific aspects of the ECPA are not working well in terms of consumer protection? Please explain why and in what way you believe they are not working well.

Ag Energy is an independent member-owned Ontario co-operative that provides energy products and services to our members and customers. Ag Energy is a services based co-operative that provides natural gas and electricity solutions to its members and customers and was incorporated 26 years ago. Our beginnings served as cost-effective procurement of natural gas for greenhouses as a result of energy deregulation, as energy is typically one of the largest input costs for our membership. We have annual sales in excess of \$40 million and our primary focus is to provide cost effective energy commodities and investment opportunities to our membership. We are a lean organization serving agriculture, agri-tech and agri-food and any related aspects of the value chain. If we were to expand the impact of our efforts to two levels,

Ag Energy and its membership (i.e. other co-operatives and organizations and their membership) reflect the following metrics:

- Approximately 7000 employees
- Greater than \$1 Billion CAD in revenue / sales per year
- Majority of the locations are rural Ontario
- 90+% of the revenue is estimated to remain in Ontario
- Any growth efforts or streamlining of bureaucracy supports these Ontario businesses/ individuals and inherently improves the province economically and socially. What is created in Ontario, stays in Ontario
- The organization exists solely to provide benefit to Members and consumers. For Members, the operation is a break-even model, any earnings in excess of zero either are distributed back in terms of dividends, shares or increased share value by enhancing the retained earnings of the balance sheet. As a co-op, we are regulated by a key principle, one Member one vote. If we had unfair business practices, the greatest punishment would be Member revolt. Given that, we are self regulating as Members benefit directly from the fair and good practices of the Co-op.

Further, our distinct role is an agricultural value chain industry advocate. Ag Energy enjoys good relations with all agricultural organizations and associations and is actively engaged in many of those associations, either directly or via its membership. Ag Energy's role is to "commercialize energy policy for the benefit of Ontario agriculture".

The current ECPA guidelines and regulations are punitive to our membership and also to agriculture, whether it is for natural gas or electricity. There are a few key opportunities for improvement that would positively affect the agricultural sector however allowing Members to have a waiver from the ECPA guidelines and still have the option to complain for any wrongful business practices, would be ideal. This would allow former and new members of the Co-operative benefit again by procuring through the Co-op.

As an Ontario energy co-operative, Ag Energy has changed its business model to not participate at the small consumer level (i.e. less than 50,000 m³ or and less than 150,000 kWh electricity annual consumption) due to the ECPA Act's high cost to serve, the very cumbersome process and contained membership. As a co-op, we believe our Members should be exempt from the process.

5. What changes do you think should be made to the ECPA at this time? For each change that is proposed, please identify the risks or benefits of making or not making the change at this time.

Our mission at Ag Energy is to provide competitive energy prices and products that suit our Member's risk tolerance (such as offering fixed one year or multi-year products). In a profitable year, Ag Energy can and does distribute patronage (cash and/or shares) which is similar to a buying rebate and also issues dividends based upon shares held. The ECPA process safeguards consumers from bad business practices and we fully support it, however as an energy co-operative that serves agriculture, we believe there should be an exemption for the Co-op's Membership. We are very different from other retailers and marketers and as such, should be considered for exemptions given that the success of the Co-op delivers immediate benefit to its owners who all happen to be members. Further, most of rural Ontario needs alternatives or choice, and as a vendor to these areas with a potential for profit sharing, many

benefit. No other retailer or marketer offers such an opportunity as our competitors have their shareholders or owners that benefit most from their organizations successes.

There are methods which could be employed to administer this exemption. For example, to be exempted, a consumer would have to be engaged in the business of farming and have either a valid Farm Business Registration (FBR) Number or the Agriculture, Food & Rural Affairs Appeals Tribunal exemption from obtaining a number or some other protocol. A declaration form similar to that used by Hydro One for large volume farm business to claim the Regulated Price Plan and/or the Ontario Clean Energy Benefit could also be applied.

Even simpler would be an exemption or waiver for all Members of any licensed Ontario energy Co-operatives. This again would streamline the overall process but provide a multitude of benefits that currently are lost to those who no longer have access.

In addition, we would encourage the government to streamline the process which would further benefit the consumer, suppliers (retailers, marketers and local utilities) and the government. For example, treating a contract with a single party which includes multiple site locations together would streamline the process. This could be allowed on the understanding that the multiple locations exemption would apply only: (a) to non-residential consumers; (b) where all of the locations are covered by the same contract; and or (c) where all of the terms and conditions (including price and term) are the same for all locations. With this change, a consumer with multiple locations which are each separate accounts that may individually consume not more than 150,000 kWh of electricity annually or 50,000 cubic metres of gas annually, but in the aggregate consume 150,000 kWh or more annually or 50,000 cubic metres or more annually would be considered a single high-volume consumer.

6. What are the key aspects of the Ontario retail energy markets that the Board should consider in assessing how effective the ECPA has been in protecting the interests of Ontario's low volume energy consumers and in considering options for change? Please explain why these aspects are important considerations for the Board.

The primary focus should be the elimination of high pressure sales tactics and penalties for non-compliance and also recourse for the consumer. That should be the area of focus.

7. Are there lessons to be learned from experience with consumer protection in retail energy markets in other jurisdictions that can be applied to Ontario?

No comment as we do not have the expertise in this domain.

8. Are there lessons to be learned from experience with consumer protection in other markets that can be applied to the retail energy markets in Ontario?

Yes. Provide more consumer services such as a hot line to call that can provide direct feedback to the consumer about the number of complaints of a retailer, the reason for the complaint etc. Further, provide a similar vehicle on the internet. Real time information and the elimination of high pressure sales tactics is really what needs to ensure continuation and protection.

9. What other questions should the Board consider including as points for discussion at the stakeholder forum?