



Ontario Energy Board Commission de l'énergie de l'Ontario

DECISION AND ORDER

EB-2017-0015

Amending Ag Energy Co-operative Ltd.'s Electricity Retailer Licence (ER-2014-0129) and Gas Marketer Licence (GM-2014-0254)

BEFORE: Rosemarie T. Leclair
Chair

Ken Quesnelle
Vice-Chair

Christine Long
Vice-Chair

June 1, 2017

BACKGROUND

Ag Energy Co-operative Ltd. (Ag Energy) is a co-operative incorporated under the *Co-operative Corporations Act* (Ontario) and is licensed by the Ontario Energy Board (OEB) as an electricity retailer and natural gas marketer. It provides energy services to agricultural producers and processors, including selling natural gas and electricity.

Ontario Regulation 389/10 (General) under the *Energy Consumer Protection Act, 2010* (ECPA) was amended effective January 1, 2017 to exempt Ag Energy from the ECPA in respect of contracts that it enters into, amends, renews or extends with its members.

Ag Energy's electricity retailer and natural gas marketer licences currently require Ag Energy to comply with the OEB's retailer and marketer Codes of Conduct. A number of the provisions of the Codes of Conduct are directly tied to the ECPA, and requiring Ag Energy to comply with those provisions is incompatible with its exemption from the ECPA.

The OEB therefore commenced this proceeding, on its own motion, pursuant to section 19(4) of the *Ontario Energy Board Act, 1998*, to amend Ag Energy's licences.

The purposes of the amendments are:

- i. to exempt Ag Energy from compliance with the Codes of Conduct, to the extent necessary to align with Ag Energy's exemption from the ECPA
- ii. to ensure consumer awareness of Ag Energy's exempt status
- iii. to enable the OEB to monitor Ag Energy's exemption

In addition, a housekeeping amendment will be made to Ag Energy's electricity retailer licence: the reference to the "FireFly Energy" trade name, which is no longer used by Ag Energy, will be removed.

Pursuant to section 21(4) of the *Ontario Energy Board Act, 1998*, no hearing was held in this matter. Given that Ag Energy has the benefit of the statutory exemption from the ECPA, the OEB is satisfied that no one will be adversely affected in a material way by the licence amendments. Ag Energy consented to having the matter disposed of without a hearing.

DECISION

The OEB finds that it is in the public interest to amend Ag Energy's electricity retailer licence and gas marketer licence. The amended licences are attached to this Decision and Order. Below is a summary of the amendments.

A. Amendments to Align with Ag Energy's Exemption from the ECPA

These amendments are in section 5.1 and the new Schedule 2 of the attached licences, and set out the provisions of the Codes of Conduct from which Ag Energy will be exempt. In keeping with the scope of Ag Energy's exemption from the ECPA, the Code of Conduct exemptions apply only to the extent that Ag Energy is transacting with a member of the co-operative. Any contracting activity that Ag Energy might undertake with persons that are not members remains fully subject to the Codes of Conduct (and the ECPA).

B. Amendments to Ensure Consumer Awareness of Ag Energy's Exempt Status

The OEB is of the view that low-volume consumers should be made aware of Ag Energy's exempt status, so that they understand that they will not have the benefit of protections that would apply if they were transacting with any other energy retailer. Ag Energy will therefore be required to give notice of its exempt status on its membership application forms and before amending, renewing or extending a contract with a member. The new section 5A of the attached licences addresses this issue.

C. Amendments to Enable the OEB to Monitor Ag Energy's Exemption

The amended licences introduce one new reporting requirement and one new record-keeping requirement. The reporting requirement is set out in section 7.2(b) of the attached gas marketer licence and section 8.2(b) of the attached electricity retailer licence, and requires Ag Energy to provide notice of any changes to its constituting documents. Of particular interest will be whether Ag Energy expands its criteria for membership, which could have the effect of considerably expanding the reach of Ag Energy's ECPA exemption. The new record-keeping requirement is set out in section 7.2(e) of the gas marketer licence and section 8.2(e) of the electricity retailer licence. It is intended to enable the OEB to readily assess compliance with the requirement discussed above regarding notification of Ag Energy's exempt status being included in member application forms. Ag Energy's reporting requirements under the *Electricity Reporting and Record Keeping Requirements* and the *Natural Gas Reporting and*

Record Keeping Requirements: Gas Marketer Licence Requirements will also be enhanced to provide a breakdown of Ag Energy's low-volume contracting activities by members of the co-operative versus non-members. These provisions are set out in sections 7.2(c) and (d) of the gas marketer licence and sections 8.2(c) and (d) of the electricity retailer licence.

D. Removal of the Reference to the FireFly Energy Trade Name

Ag Energy is currently authorized under its electricity retailer licence to use the FireFly Energy trade name. Ag Energy has advised that it no longer uses that trade name. Accordingly, the OEB will remove the reference to FireFly Energy in Schedule 1 of the licence.

THE ONTARIO ENERGY BOARD THEREFORE ORDERS THAT:

1. Ag Energy's electricity retailer licence (ER-2014-0129) is amended. The amended licence is attached to this Decision and Order.
2. Ag Energy's gas marketer licence (GM-2014-0254) is amended. The amended licence is attached to this Decision and Order.

DATED at Toronto June 1, 2017

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary



Gas Marketer Licence

GM-2014-0254

Ag Energy Co-operative Ltd.

Valid Until

October 8, 2019

Original signed by

Kirsten Walli
Board Secretary
Ontario Energy Board
Date of Issuance: October 9, 2014
Date of Amendment: June 1, 2017

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1 Definitions

1.1 In this Licence:

“Act” means the Ontario Energy Board Act, 1998, S.O. 1998, c. 15, Schedule B;

“ECPA” means the Energy Consumer Protection Act, 2010, S.O. 2010, c. 8;

“low-volume consumer” means a person who annually uses less than 50,000 cubic meters of gas;

“Licensee” means Ag Energy Co-operative Ltd.;

“regulation” means a regulation made under the Act.

2 Interpretation

- 2.1 In this Licence, words and phrases shall have the meaning ascribed to them in the Act. Words or phrases importing the singular shall include the plural and vice versa. Headings are for convenience only and shall not affect the interpretation of this Licence. Any reference to a document or a provision of a document includes an amendment or supplement to, or a replacement of, that document or that provision of that document. In the computation of time under this Licence, where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens. Where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

3 Authorization

- 3.1 The Licensee is authorized, under Part IV of the Act, and subject to the terms and conditions set out in this Licence:

- a) to sell or offer to sell gas to a low-volume consumer;
- b) to act as the agent or broker for seller of gas to a low-volume consumer; and
- c) to act or offer to act as the agent or broker of a low-volume consumer in the purchase of gas.

- 3.2 The Licensee is authorized to conduct business in the name under which this Licence is issued, or any trade name(s) listed in Schedule 1.

4 Obligation to Comply with Legislation and Regulations

- 4.1 The Licensee shall comply with all applicable provisions of the Act and regulations under the Act except where the Licensee has been exempted from such compliance by regulation.

5 Obligation to Comply with Codes

- 5.1 Except as otherwise provided in Schedule 2, the Licensee shall at all times comply with all applicable provisions of the Code of Conduct for Gas Marketers, as issued and amended by the Board from time to time under Part III of the Act.
- 5.2 This Licensee shall:
- a) make a copy of the Code available for inspection by members of the public at its head office and regional offices during normal business hours; and
 - b) provide a copy of the Code to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.

5A Notification to Consumers of ECPA Exemption

- 5A.1 The Licensee shall include the following notice on its membership application for low-volume consumers:

"Notice of ECPA Exemption: Ag Energy Co-operative Ltd. has been exempted from the *Energy Consumer Protection Act, 2010* for any contract for the sale of electricity or natural gas that Ag Energy Co-operative Ltd. enters into, amends, renews or extends with one of its members. The *Energy Consumer Protection Act, 2010* and Ontario Regulation 389/10 (General) made under it give consumers a number of rights in relation to contracts for electricity and natural gas. If, as a member of Ag Energy Co-operative Ltd., you enter into, amend, renew or extend a contract to buy electricity or natural gas from Ag Energy Co-operative Ltd., the consumer protection provisions of the *Energy Consumer Protection Act, 2010* and Ontario Regulation 389/10 (General) will not apply to you."

- 5A.2 Before entering into, amending, renewing or extending a contract with a low-volume consumer that is a member of the Licensee, the Licensee shall notify the member of the Licensee's exemption from Part II of the ECPA in writing as follows:

"Notice of ECPA Exemption: Ag Energy Co-operative Ltd. has been exempted from the *Energy Consumer Protection Act, 2010* for any contract for the sale of electricity or natural gas that Ag Energy Co-operative Ltd. enters into, amends, renews or extends with one of its members on or after January 1, 2017. The *Energy Consumer Protection Act, 2010* and Ontario Regulation 389/10 (General) made under it give consumers a number of rights in relation to contracts for electricity and natural gas. If, as a member of Ag Energy Co-operative Ltd., you enter into, amend, renew or extend a contract to buy electricity or natural gas from Ag Energy Co-operative Ltd., the consumer protection provisions of the *Energy Consumer Protection Act, 2010* and Ontario Regulation 389/10 (General) will not apply to you."

- 5A.3 The notice referred to in paragraph 5A.1 and the notification referred to in paragraph 5A.2 shall be presented with no less prominence than any other information contained in the applicable document.

6 Agent for Service

- 6.1 If the Licensee does not have an office or other place of business in Ontario, the Licensee shall ensure the continuing appointment at all times of an individual who is a resident of Ontario and is at least 18 years old, or a corporation that has its head office or registered office in Ontario, as the Licensee's agent for service in Ontario on whom service of process, notices or other documentation may be made.

7 Provision of Information to the Board

- 7.1 The Licensee shall maintain records of and provide, in the manner and form determined by the Board, such information as the Board may require from time to time.
- 7.2 Without limiting the generality of paragraph 7.1, the Licensee shall:
- a) notify the Board of any material change in circumstances that adversely affects or is likely to adversely affect the business, operations or assets of the Licensee as soon as practicable, but in any event no more than twenty (20) days past the date upon which such change occurs;
 - b) provide the Board with notice of any changes to the Licensee's Articles of Incorporation or any of its By-laws, including the repeal of any of them, no more than twenty (20) days after the date on which such change is approved;
 - c) further break down the information required by section 2.1.1 of the Board's *Natural Gas Reporting and Record Keeping Requirements: Gas Marketer Licence Requirements* by low-volume consumers that are members of the Licensee and low-volume consumers that are not members of the Licensee;
 - d) include with its quarterly reports to the Board under the *Natural Gas Reporting and Record Keeping Requirements: Gas Marketer Licence Requirements* information on the number of contracts that were amended, renewed or extended with low-volume consumers during the quarter, broken down by type of consumers as follows: (i) members of the Licensee; and (ii) consumers that are not members of the Licensee; and
 - e) maintain, under section 2.2.2 of the *Natural Gas Reporting and Record Keeping Requirements: Gas Marketer Licence Requirements*, a copy of all application forms received by prospective members of the Licensee that are low-volume consumers.

8 Customer Complaint and Dispute Resolution

- 8.1 The Licensee shall participate in a consumer complaints resolution process selected by the Board.

9 Term of Licence

- 9.1 This Licence shall take effect on October 9, 2014 and expire on October 8, 2019. The term of this Licence may be extended by the Board.

10 Fees and Assessments

10.1 The Licensee shall pay all fees charged and amounts assessed by the Board.

11 Communication

11.1 The Licensee shall designate a person that will act as a primary contact with the Board on matters related to this Licence. The Licensee shall notify the Board promptly should the contact details change.

11.2 All official communication relating to this Licence shall be in writing.

11.3 All written communication is to be regarded as having been given by the sender and received by the addressee:

- a) when delivered in person to the addressee by hand, by registered mail, or by courier;
- b) ten (10) business days after the date of posting, if the communication is sent by regular mail; or
- c) when received by facsimile transmission by the addressee, according to the sender's transmission report.

12 Copies of the Licence

12.1 The Licensee shall:

- a) make a copy of this Licence available for inspection by members of the public at its head office and regional offices during normal business hours; and
- b) provide a copy of this Licence to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.

SCHEDULE 1 AUTHORIZED TRADE NAMES

None

SCHEDULE 2 EXEMPTIONS FROM THE CODE OF CONDUCT FOR GAS MARKETERS

1. The Licensee is exempt from the following provisions of Part B of the Code of Conduct for Gas Marketers in respect of contracts that the Licensee enters into, amends, renews or extends with a low-volume consumer that is a member of the Licensee:

- i. paragraphs (f.1) and (f.2) of section 1.1 (fair marketing practices);
- ii. section 2 (business cards and identification badges), provided that nothing in this exemption shall be construed as affecting the Licensee's requirement to comply with sections 5 and 6 of Ontario Regulation 90/99 (Licence Requirements – Electricity Retailers and Gas Marketers) in relation to business cards and identification badges;
- iii. sections 3.2A to 3.2D (contract terms and conditions);
- iv. section 3.3 (transfer requests and supply), provided however that:
 - a. the Licensee shall not submit a request to a gas distributor for a change of gas supply for a consumer to the Licensee or supply gas to a consumer unless the Licensee has the permission in writing of the consumer to do so; and
 - b. if the Licensee discovers that a transfer request that it has submitted to a gas distributor for a consumer is supported by a contract that does not comply with the Act, the regulations made under the Act, this Licence or the Code of Conduct for Gas Marketers, or does not contain the signature of the consumer, the Licensee shall contact the affected consumer, clearly explain the non-compliance, and offer that consumer a compliant contract; and
 - A. if the consumer accepts the compliant contract, provide a copy of the compliant contract to the consumer within 14 days of acceptance by that consumer; or
 - B. if the consumer does not accept the compliant contract, immediately reverse the transfer request.
- v. the last paragraph of section 3.5 (transfer requests where consumer enters into contract with another gas marketer);
- vi. section 4 (disclosure statements, price comparisons, verification and renewals or extensions);
- vii. section 5 (training), but only to the extent the training requirements set out therein relate to regulatory requirements from which the Licensee is exempt under this Licence or Ontario Regulation 389/10 (General);
- viii. section 6 (certification), provided that, commencing in 2018, the Licensee shall provide in the form and manner required by the Board, annually by April 30, a self-certification statement on compliance with the Act, the regulations and the Code of Conduct for Gas Marketers;
- ix. sections 7.4 to 7.6 (compliance monitoring), but only to the extent of references to compliance with the ECPA; and
- x. sections 7.7 to 7.9 (gas marketer complaint and compliance information).

2. For greater certainty, where a term is defined in section 1.2 of the Code of Conduct for Gas Marketers by reference to the ECPA or to Ontario Regulation 389/10 (General) made under the ECPA, that definition continues to apply notwithstanding that the Licensee is exempt from the ECPA in respect of contracts that it enters into, amends, renews or extends with a low-volume consumer that is a member of the Licensee.
3. The Licensee is exempt from any amendment to the Code of Conduct for Gas Marketers that the Board makes on or after June 1, 2017 as of the date on which the Board notifies the Licensee in writing that the amendment does not apply to the Licensee.
4. Any exemption referred to in section 3 of this Schedule only applies in respect of contracts that the Licensee enters into, amends, renews or extends with a low-volume consumer that is a member of the Licensee.



Electricity Retailer Licence

ER-2014-0129

Ag Energy Co-operative Ltd.

Valid Until

August 6, 2019

Original signed by

Kirsten Walli

Board Secretary

Ontario Energy Board

Date of Issuance: August 7, 2014

Date of Amendment: June 1, 2017

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1 Definitions

In this Licence:

“Act” means the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B;

“ECPA” means the *Energy Consumer Protection Act, 2010*, S.O. 2010, c. 8;

“consumer” means a person who uses, for the person’s own consumption, electricity that the person did not generate;

“Electricity Act” means the *Electricity Act, 1998*, S.O. 1998, c. 15, Schedule A;

“Licensee” means Ag Energy Co-operative Ltd.;

“low-volume consumer” means a person who annually uses less than 150,000 kWh of electricity;

“Market Rules” means the rules made under section 32 of the Electricity Act; and

“regulation” means a regulation made under the Act or the Electricity Act;

“residential or small business consumer” means a consumer who annually uses less than 150,000 kWh of electricity;

For the purpose of this Licence, the terms “retailer” and “retailing” do not apply to a Licensed Distribution Company fulfilling its obligations under section 29 of the Electricity Act.

2 Interpretation

- 2.1 In this Licence, words and phrases shall have the meaning ascribed to them in the Act or the Electricity Act. Words or phrases importing the singular shall include the plural and vice versa. Headings are for convenience only and shall not affect the interpretation of this Licence. Any reference to a document or a provision of a document includes an amendment or supplement to, or a replacement of, that document or that provision of that document. In the computation of time under this Licence, where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens. Where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

3 Authorization

- 3.1 The Licensee is authorized, under Part V of the Act and subject to the terms and conditions set out in this Licence:
- a) to sell or offer to sell electricity to a consumer;
 - b) to act as the agent or broker for a retailer with respect to the sale or offering for sale of electricity; and
 - c) to act or offer to act as the agent or broker for a consumer with respect to the sale or offering for sale of electricity.

- 3.2 The Licensee is authorized to conduct business in the name under which this Licence is issued, or any trade name(s) listed in Schedule 1.

4 Obligation to Comply with Legislation, Regulations and Market Rules

- 4.1 The Licensee shall comply with all applicable provisions of the Act, the Electricity Act and regulations under these Acts, except where the Licensee has been exempted from such compliance by regulation.
- 4.2 The Licensee shall comply with all applicable Market Rules.

5 Obligation to Comply with Codes

- 5.1 Except as otherwise provided in Schedule 2, the Licensee shall at all times comply with the following Codes (collectively the "Codes") approved by the Board, except where the Licensee has been specifically exempted from such compliance by the Board:
- a) the Electricity Retailer Code of Conduct;
 - b) the Retail Settlement Code; and
 - c) the Retail Metering Code.
- 5.2 The Licensee shall:
- a) make a copy of the Codes available for inspection by members of the public at its head office and regional offices during normal business hours; and
 - b) provide a copy of the Codes to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.

5A Notification to Consumers of ECPA Exemption

- 5A.1 The Licensee shall include the following notice on its membership form for low-volume consumers:

"Notice of ECPA Exemption: Ag Energy Co-operative Ltd. has been exempted from the Energy Consumer Protection Act, 2010 for any contract for the sale of electricity or natural gas that Ag Energy Co-operative Ltd. enters into, amends, renews or extends with one of its members. The Energy Consumer Protection Act, 2010 and Ontario Regulation 389/10 (General) made under it give consumers a number of rights in relation to contracts for electricity and natural gas. If, as a member of Ag Energy Co-operative Ltd., you enter into, amend, renew or extend a contract to buy electricity or natural gas from Ag Energy Co-operative Ltd., the consumer protection provisions of the Energy Consumer Protection Act, 2010 and Ontario Regulation 389/10 (General) will not apply to you."

- 5A.2 Before entering into, amending, renewing or extending a contract with a low-volume consumer that is a member of the Licensee, the Licensee shall notify the member of the Licensee's exemption from Part II of the ECPA in writing as follows:

“Notice of ECPA Exemption: Ag Energy Co-operative Ltd. has been exempted from the Energy Consumer Protection Act, 2010 for any contract for the sale of electricity or natural gas that Ag Energy Co-operative Ltd. enters into, amends, renews or extends with one of its members on and after January 1, 2017. The Energy Consumer Protection Act, 2010 and Ontario Regulation 389/10 (General) made under it give consumers a number of rights in relation to contracts for electricity and natural gas. If, as a member of Ag Energy Co-operative Ltd., you enter into, amend, renew or extend a contract to buy electricity or natural gas from Ag Energy Co-operative Ltd., the consumer protection provisions of the Energy Consumer Protection Act, 2010 and Ontario Regulation 389/10 (General) will not apply to you.

- 5A.3 The notice referred to in paragraph 5A.1 and the notification referred to in paragraph 5A.2 shall be presented with no less prominence than any other information contained in the applicable document.

6 Agent for Service

- 6.1 If the Licensee does not have an office or other place of business in Ontario, the Licensee shall ensure the continuing appointment at all times of an individual who is a resident of Ontario and is at least 18 years old, or a corporation that has its head office or registered office in Ontario, as the Licensee's agent for service in Ontario on whom service of process, notices or other documentation may be made.

7 Market Power Mitigation Rebates

- 7.1 The Licensee shall comply with the pass through of Ontario Power Generation rebate conditions set out in Appendix A of this Licence.

8 Provision of Information to the Board

- 8.1 The Licensee shall maintain records of and provide, in the manner and form determined by the Board, such information as the Board may require from time to time.
- 8.2 Without limiting the generality of paragraph 8.1, the Licensee shall:
- a) notify the Board of any material change in circumstances that adversely affects or is likely to adversely affect the business, operations or assets of the Licensee as soon as practicable, but in any event no more than twenty (20) days past the date upon which such change occurs;
 - b) provide the Board with notice of any changes to the Licensee's Articles of Incorporation or any of its By-laws, including the repeal of any of them, no more than twenty (20) days after the date on which such change is approved;
 - c) further break down the information required by section 4.1.1 of the Board's *Electricity Reporting and Record Keeping Requirements* by low-volume consumers that are members of the Licensee and low-volume consumers that are not members of the Licensee;
 - d) include with its quarterly reports to the Board under the *Electricity Reporting and Record Keeping Requirements* information on the number of contracts that were amended, renewed or extended with low-volume consumers during the quarter, broken down by

type of consumers as follows: (i) members of the Licensee; and (ii) consumers that are not members of the Licensee; and

- e) maintain, under section 4.2.4 of the *Electricity Reporting and Record Keeping Requirements*, a copy of all application forms received by prospective members of the Licensee that are low-volume consumers.

9 Customer Complaint and Dispute Resolution

- 9.1 The Licensee shall participate in a consumer complaints resolution process selected by the Board.

10 Term of Licence

- 10.1 This Licence shall take effect on August 7, 2014 and expire on August 6, 2019. The term of this Licence may be extended by the Board.

11 Fees and Assessments

- 11.1 The Licensee shall pay all fees charged and amounts assessed by the Board.

12 Communication

- 12.1 The Licensee shall designate a person that will act as a primary contact with the Board on matters related to this Licence. The Licensee shall notify the Board promptly should the contact details change.
- 12.2 All official communication relating to this Licence shall be in writing.
- 12.3 All written communication is to be regarded as having been given by the sender and received by the addressee:
 - a) when delivered in person to the addressee by hand, by registered mail, or by courier;
 - b) ten (10) business days after the date of posting if the communication is sent by regular mail; or
 - c) when received by facsimile transmission by the addressee, according to the sender's transmission report.

13 Copies of the Licence

- 13.1 The Licensee shall:
 - a) make a copy of this Licence available for inspection by members of the public at its head office and regional offices during normal business hours; and
 - b) provide a copy of this Licence to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.

SCHEDULE 1 AUTHORIZED TRADE NAMES

None

SCHEDULE 2 EXEMPTIONS FROM THE ELECTRICITY RETAILER CODE OF CONDUCT

1. The Licensee is exempt from the following provisions of Part B of the Electricity Retailer Code of Conduct in respect of contracts that the Licensee enters into, amends, renews or extends with a low-volume consumer that is a member of the Licensee:
 - i. paragraphs (f.1) and (f.2) of section 1.1 (fair marketing practices);
 - ii. section 2 (business cards and identification badges, provided that nothing in this exemption shall be construed as affecting the Licensee's requirement to comply with sections 5 and 6 of Ontario Regulation 90/99 (Licence Requirements – Electricity Retailers and Gas Marketers) in relation to business cards and identification badges;
 - iii. sections 3.2A to 3.2D (contract terms and conditions);
 - iv. section 3.3 (transfer requests and supply – low-volume consumers), provided however that:
 - a. the Licensee shall not submit a request to a distributor for a change of electricity supply for a consumer to the Licensee or supply electricity to a consumer unless the Licensee has the permission in writing of the consumer to do so; and
 - b. if the Licensee discovers that a transfer request that it has submitted to a gas distributor for a consumer is supported by a contract that does not comply with the Act, the regulations made under the Act, this Licence or the Electricity Retailer Code of Conduct, or does not contain the signature of the consumer, the Licensee shall contact the affected consumer, clearly explain the non-compliance, and offer that consumer a compliant contract; and
 - A. if the consumer accepts the compliant contract, provide a copy of the compliant contract to the consumer within 14 days of acceptance by that consumer; or
 - B. if the consumer does not accept the compliant contract, immediately reverse the transfer request.
 - v. the last paragraph of section 3.7 (transfer requests where consumer enters into contract with another retailer);
 - vi. section 4 (disclosure statements, price comparisons, verification and renewals or extensions);
 - vii. section 5 (training), but only to the extent the training requirements set out therein relate to regulatory requirements from which the Licensee is exempt under this Licence or Ontario Regulation 389/10 (General);
 - viii. section 6 (certification), provided that, commencing in 2018, the Licensee shall provide in the form and manner required by the Board, annually by April 30, a self-certification statement on compliance with the Act, the regulations and the Electricity Retailer Code of Conduct;
 - ix. sections 7.4 to 7.6 (compliance monitoring), but only to the extent of references to compliance with the ECPA; and
 - x. sections 7.7 to 7.9 (retailer complaint and compliance information).

2. For greater certainty, where a term is defined in section 1.2 of the Electricity Retailer Code of Conduct by reference to the ECPA or to Ontario Regulation 389/10 (General) made under the ECPA, that definition continues to apply notwithstanding that the Licensee is exempt from the ECPA in respect of contracts that it enters into, amends, renews or extends with a low-volume consumer that is a member of the Licensee.
3. The Licensee is exempt from any amendment to the Electricity Retailer Code of Conduct that the Board makes on or after June 1, 2017 as of the date on which the Board notifies the Licensee in writing that the amendment does not apply to the Licensee.
4. Any exemption referred to in section 3 of this Schedule only applies in respect of contracts that the Licensee enters into, amends, renews or extends with a low-volume consumer that is a member of the Licensee.

APPENDIX A MARKET POWER MITIGATION REBATES

“OPGI” means Ontario Power Generation Inc.

A retailer shall promptly pass through a portion of the rebate received from a distributor to those consumers who are not receiving the fixed price under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998* and who are served by the retailer but who have not assigned the benefit of the rebate payment to the retailer.

If requested in writing by OPGI, the retailer shall ensure that all rebates paid to consumers are identified as coming from OPGI in the following form on or with each bill or cheque.

“ONTARIO POWER GENERATION INC. rebate”

A retailer shall promptly return to a distributor any portion of the rebate received from the distributor which relates to low-volume or designated consumers receiving the fixed commodity price for electricity under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998*, who are served by the retailer but who have not assigned the benefit of the rebate payment to the retailer or another party.

The amounts paid out to consumers or returned to the distributor shall be based on energy consumed and calculated in accordance with the rules set out in the Retail Settlement Code.

Amounts payable by the retailer may be made by way of set off at the discretion of the retailer.

ONTARIO POWER GENERATION INC. REBATES

For the payments that relate to the period from May 1, 2006 to April 30, 2009, the rules set out below shall apply.

A retailer shall promptly pass through a portion of the rebate received from a distributor to those consumers who are not receiving the fixed price under sections 79.4, 79.5 and 79.16 of the *Ontario Energy Board Act, 1998* and who are served by the retailer but who have not assigned the benefit of the rebate payment to the retailer.

If requested in writing by OPGI, the retailer shall ensure that all rebates paid to consumers are identified as coming from OPGI in the following form on or with each bill or cheque.

“ONTARIO POWER GENERATION INC. rebate”

The amounts paid out to consumers or returned to the distributor shall be based on energy consumed and calculated in accordance with the rules set out in the Retail Settlement Code.

Amounts payable by the retailer may be made by way of set off at the discretion of the retailer.