

**ELECTRICITY RETAILER  
CODE OF CONDUCT**

**ONTARIO ENERGY BOARD**

August 18, 1999

# Electricity Retailer Code of Conduct

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## 1. INTRODUCTION

### 1.1 Definitions

In this Code, unless the context otherwise requires:

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

“agency agreement” means a contract or arrangement under which a consumer retains, as the consumer’s agent, a person who carries on or engages in electricity purchases, and “agency” has a corresponding meaning;

“Board” means the Ontario Energy Board;

“Code” means this Electricity Retailer Code of Conduct;

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

“consumer information” means information relating to a specific consumer obtained by an electricity retailer or its salesperson through the process of retailing electricity to the consumer, and includes information obtained without the consent of the consumer;

“day” means a business day, not including weekends or statutory holidays;

“Director” means the Director of Licensing appointed under section 5 of the Act;

“distributor” means a person who owns or operates an electricity distribution system;

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

“in writing” means communication through writing, facsimile, or any other means of communication considered legally binding in the Province of Ontario;

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

“offer” means a proposal to enter into a contract, agency agreement, or any other agreement or combination thereof, made to an existing or prospective consumer for the sale of electricity;

“premises” means the building or portion of a building that is provided with electricity through a single meter;

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

“residential or small business consumer” is defined by regulation to be a consumer who annually uses electricity less than 150,000 kWh of electricity.

“retail”, with respect to electricity, means:

(a) to sell or offer to sell electricity to a consumer; or

(b) to act as agent or broker for a retailer with respect to the sale or offering for sale of electricity; or

(c) to act or offer to act as an agent or broker for a consumer with respect to the sale or offering for sale of electricity;

“retailer” means a person who retails electricity.

For the purposes of this Code, the term “retailer” does not apply to a licensed Distribution Company retailing electricity to meet its obligations under section 29 of the *Electricity Act, 1998*;

“retailing,” for the purpose of this Code, means to provide for a consumer’s consideration an offer, and includes door-to-door selling, telemarketing, direct mail selling activities,

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and any other means by which an electricity retailer or a salesperson interacts directly with an energy consumer;

“salesperson” means a person who is employed by or otherwise conducts retailing on behalf of a licenced electricity retailer or makes representations to consumers on behalf of an electricity retailer for the purpose of effecting sales of electricity or entering into agreements with consumers.

“third party” with respect to an electricity retailer, means a person other than the electricity retailer, including other electricity retailers, affiliates, consumers and other persons.

### **1.2 Interpretations**

Unless otherwise defined in this Code, words and phrases shall have the meaning ascribed to them in the *Ontario Energy Board Act, 1998*. Nothing in this Code shall alter or affect the conditions of the licence of an electricity retailer. Headings are for convenience only and shall not affect the interpretation of this Code. Words importing the singular include the plural and vice versa.

### **1.3 Purpose of the Code**

This Code sets the minimum standards under which a licensed electricity retailer may retail electricity. Specific requirements may apply for offers made to residential or small business consumers. The Board may exempt an electricity retailer from compliance with this Code, in whole or in part, subject to such conditions or restrictions as the Board may determine. From time to time, amendments may be made to this Code by the Board in accordance with the Act.

### **1.4 Coming into Force**

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This Code comes into force on a date to be determined.

### 2. STANDARDS AND PRINCIPLES

#### 2.1 Fair Marketing Practices

2.1.1 Nothing in or done under the authority of this Code affects the obligation of an electricity retailer and its salespersons to comply with legislation and regulations pertaining to marketing, advertising and business practices, including the *Consumer Protection Act* (Ontario), the *Business Practices Act* (Ontario) and the *Competition Act* (Canada).

2.1.2 An electricity retailer shall ensure that its salespersons adhere to the same standards required of the electricity retailer as set out in this Code.

2.1.3 An electricity retailer shall do the following when retailing electricity :

- (a) immediately and truthfully identify themselves to the consumer;
- (b) clearly indicate that the offer is not being made by a regulated distribution company, and not seek to mislead or otherwise create any confusion in the mind of a consumer about the identity of the marketer, its promotion campaigns or trade mark, or those of competitors or the regulated distribution company;
- (c) not exert undue pressure on a consumer;
- (d) provide sufficient time for a consumer to read thoughtfully and without harassment all documents provided;

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- (e) not make any representation or statement or give any answer or take any measure that is false or is likely to mislead a consumer with regard to any term in an offer;
- (f) provide only timely, accurate, verifiable and truthful comparisons;
- (g) not make any verbal representations regarding contracts, rights or obligations unless those representations are contained in the written offer;
- (h) ensure all descriptions and promises made in promotional material are in accordance with actual conditions, situations and circumstances;
- (i) not use print that due to its size or other visual characteristics, is likely to impair materially the legibility or clarity of documents provided to consumers.

2.1.4 An electricity retailer shall not request a distributor to allow the electricity retailer to supply electricity to a consumer unless the electricity retailer has the permission of the consumer in writing to do so.

2.1.5 Where an electricity retailer's marketing materials or advertising contain representations concerning the nature, quality and price of any distributor's service, the electricity retailer shall take such steps as are reasonable and appropriate to ensure that such representations are accurate and fair.

## 2.2 Identification

2.2.1 An electricity retailer shall, when retailing, use the name or names under which the electricity retailer is licensed, and any reference to the name of a salesperson in any advertisement shall identify the electricity retailer for whom that salesperson acts.

2.2.2 An electricity retailer must make available the following information when retailing:

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- name or names in which the electricity retailer is licensed;
- electricity retailer licence number;
- telephone number of the electricity retailer;
- name of the salesperson;
- photograph of the salesperson, if marketing to a residential or small business consumer at a place other than the electricity retailer's business premises

2.2.3 An electricity retailer shall have a mailing address in Ontario and shall have a telephone number listed in Ontario

2.2.4 If retailing to residential or small business consumers, an electricity retailer shall have a telephone number listed in Ontario which may be reached by the general public without charge.

### **2.3 Information to be Maintained by an Electricity Retailer**

2.3.1 An electricity retailer shall maintain a current list of salespersons who act for that electricity retailer, and this list shall be provided to the Director upon request.

2.3.2 An electricity retailer shall maintain on file:

- (a) a list of its customers;
- (b) permission from each customer, in writing, to submit a request to a distributor to allow the electricity retailer to supply electricity to the customer;
- (c) agreement from each customer, with the customer's signature, to purchase electricity from the electricity retailer;
- (d) a copy of the contract which the electricity retailer has with each customer.

### **2.4 Confidentiality of Consumer Information**

2.4.1 An electricity retailer shall not disclose consumer information as defined in this Code to a third party without the consent of the consumer in writing, except when

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information has been sufficiently aggregated such that an individual's consumer information cannot be identified, or where consumer information is required to be disclosed:

- (a) for billing or market operation purposes; or
- (b) for law enforcement purposes; or
- (c) for the purpose of complying with a legal requirement; or
- (d) when past due accounts of the consumer have been passed to a debt collection agency; or
- (e) for the purpose of complying with the Market Rules.

2.4.2 An electricity retailer shall inform consumers regarding the conditions described in paragraph 2.4.1 under which consumer information may be released to a third party without the consumer's consent.

2.4.3 An electricity retailer shall not use consumer information obtained for one purpose from a consumer for any other purpose without the consent of the consumer in writing.

### 2.5 Conditions in Offers

2.5.1 An offer to a residential or small business consumer shall clearly indicate the time period for which the contract is in effect, and any terms and conditions for renewal.

2.5.2 An offer to a residential or small business consumer shall clearly state the price, terms of payment and if other terms, such as:

- deposits
- exit fees
- late charges
- the nature and amount of any other charges related to the contract
- type and frequency of bills the customer will receive
- how to make a complaint to or enquiry of the electricity retailer
- how to access an independent customer complaints resolution process

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- reasons for which the contract may be terminated
- whether the contract can be transferred or assigned to another electricity retailer, these terms must also be stated clearly in the offer.

2.5.3 An offer to a residential or small business consumer shall contain clear statements as to the intended start date for the contract and conditions under which the start date may not be met.

2.5.4 An electricity retailer shall provide a residential or small business consumer with a copy of the contract at the time the contract or agreement is entered into.

2.5.5 An offer to a residential or small business electricity consumer shall indicate whether it is being made with respect to specified premises, for the time being owned, occupied or controlled by the consumer.

### 2.6 Contracts

2.6.1 An electricity retailer shall not enter into any contract with a residential or small business consumer that is inconsistent with the offer made to the consumer and leading to the contract.

2.6.2 An electricity retailer shall not enter into any contract with a residential or small business consumer that has a term of more than five years.

2.6.3 Every contract which an electricity retailer enters into with a residential or small business consumer shall include a condition that allows the consumer to rescind the contract by giving notice in writing within 10 days after it is entered into without the consumer being liable for any damages in respect of the rescission,

- (a) by personally delivering or mailing by registered mail a written notice of rescission to a person and address specified in the contract; or
- (b) by sending a telephone transmission of a facsimile of a written notice of rescission to a person and a telephone number specified in the contract.

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2.6.4 The licence holder shall advise a residential or small business consumer of the provisions of section 2.6.3 and provide the consumer with a telephone number for receiving facsimile transmissions both upon entering into a contract with the consumer and if the consumer provides verbal notice of a wish to rescind the contract.

2.6.5 An electricity retailer shall not enter into any contract as the agent of a residential or small business consumer within 10 days after being appointed as the consumer's agent.

### **2.7 Contract Renewals**

2.7.1 A contract with a residential or small business consumer that is renewed shall be consistent with the requirements placed on contracts as a condition of the electricity retailer's licence and in accordance with this Code.

2.7.2 An electricity retailer shall not renew a contract with a residential or small business consumer unless the original contract contains terms of renewal, and the consumer:

a) receives an advance written notice of the renewal no more than 120 days before the date of renewal; and

(b) has at least 30 days from the receipt of such notice and prior to the date of renewal to cancel the renewal.

2.7.3 A contract with a residential or small business consumer that is renewed shall be consistent with the terms of the original contract, unless the consumer gives permission in writing to implement the new terms.

2.7.4 Notwithstanding subsection 2.7.3, an electricity retailer is not required to obtain a residential or small business consumer's permission in writing, if the terms of renewal are limited to extending the contract for a period of one year or less. If a

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contract is renewed for a period of one year or less, a change in price may also be made without written confirmation of the residential or small business consumer, provided that the consumer is informed of the change in the advance written notice of the renewal and is provided with the opportunity to cancel the renewed contract within 30 days after receiving the first invoice showing the new price.

### **2.8 Transfers and Assignment of Contracts**

- 2.8.1 An electricity retailer shall not transfer, sell or assign the administration of a contract with a consumer to another person who is not a licenced electricity retailer.
- 2.8.2 Within 30 days of any transfer or assignment of a contract to another electricity retailer the affected consumer must be notified of:
- (a) the new electricity retailer's address for service and the new telephone number, if these have changed;
  - (b) the person or entity providing the consumer complaints resolution process if it has changed, and if the affected consumer is a residential or small business consumer.

### **2.9 Consumer Complaints Resolution Process**

- 2.9.1 An electricity retailer shall inform its prospective residential or small business consumers in all written offers and contracts about the consumer complaints resolution process selected by the Board for that electricity retailer.
- 2.9.2 An electricity retailer shall inform existing residential or small business customers about the consumer complaints resolution process specified by the Board at the time of renewal of any contract and at the time a complaint is received by the electricity retailer.
- 2.9.3 An electricity retailer is required to attempt to resolve all residential or small business consumer complaints and inquiries before referring a customer

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complaint or inquiry to the complaints resolution process specified as of a condition of the electricity retailer's licence.

2.9.4 Should any residential or small business consumer complain that an electricity retailer or its salespersons have engaged in any improper course of conduct while retailing, the electricity retailer shall investigate the complaint and take all appropriate and necessary steps consistent with the consumer complaints resolution process specified by the Board.

### **2.10 Breach of this Code**

2.10.1 Under section 76 of the Act, an electricity retailer's licence can be suspended or revoked if the licence holder does not comply with this Code as issued and amended by the Board from time to time under Part V of the Act.

2.10.2 A breach of this Code may occur in the course of inducing a person to enter into an offer, even in the absence of a contract.

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