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Compliance Office

February 14, 2008

Compliance Bulletin 200801

To: All Licensed Electricity Retailers and Natural Gas Marketers

Re: Authorization to Supply Electricity or Natural Gas to Residential Premises

This Bulletin is intended to provide guidance to licensed electricity retailers and natural gas marketers in relation to persons that can authorize the supply of electricity or natural gas to residential premises.

The Compliance Office has received a number of consumer enquiries and complaints regarding the ability of persons other than an account holder to authorize the supply of electricity or natural gas to residential premises.

Section 2.3 of the Board's Electricity Retailer Code of Conduct prohibits a retailer from supplying electricity to a consumer unless the retailer has the permission of the consumer in writing to do so. Section 2.3 of the Board's Code of Conduct for Gas Marketers is to the same effect in relation to the supply of natural gas.

For the purposes of these sections, it is my view that permission to supply electricity or gas to residential premises, whether initially or for a renewal term, may only be given by one of the following:

- i. **The account holder for the premises.** The account holder is the person in whose name an account has been established with a distributor for the distribution of electricity or natural gas, and in whose name invoices are issued in respect of the provision of that service. Third parties that may be identified in a distributor's customer information system as persons with whom account information may also be shared are not account holders.
- ii. **A spouse of the account holder,** unless the electricity retailer or natural gas marketer knows at the relevant time that the account holder has withdrawn his or her spouse's authority to give permission to supply the premises. My view in this regard is informed by section 45(1) of the *Family Law Act* (Ontario), which states as follows:

"During cohabitation, a spouse has authority to render himself or herself and his or her spouse jointly and severally liable to a third party for necessities of life, unless the spouse has notified the third party that he or she has withdrawn the authority."

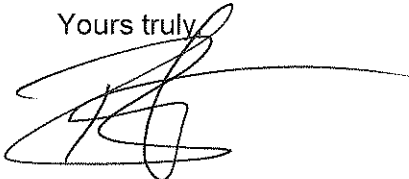
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- iii. **A person, other than the retailer or marketer, who has been granted authority to do so by the account holder (i.e., the account holder's duly authorized agent for this purpose), or whose act of giving permission to supply has been ratified by the account holder.** I expect that a retailer or marketer that relies on permission given by an account holder's agent will be able to provide evidence of the agent's authority to act on behalf of the account holder. I do not consider that a representation and warranty in an electricity or gas contract to the effect that the signing party has authority to bind the account holder (or words of similar effect) is sufficient in and of itself to create an agency relationship, nor do I consider such representation and warranty to be sufficient evidence in and of itself of an agency relationship.

It is also my view that only the above persons may provide the reaffirmation that is also required by section 2.3 of each of the Codes of Conduct.

Please direct any questions that you may have on the subject matter of this Bulletin to the Market Participant Hotline at 416-440-7604 or by email at market.operations@oeb.gov.on.ca.

Yours truly

A handwritten signature in black ink, appearing to be 'BH' with a long horizontal stroke extending to the right.

Brian Hewson
Chief Compliance Officer
Ontario Energy Board

No statutory power of decision has been delegated to the Chief Compliance Officer, and the views expressed in this Compliance Bulletin are not binding on the Board. The Chief Compliance Officer may seek enforcement action by the Board under Part VII.1 of the *Ontario Energy Board Act, 1998* in relation to non-compliance.