Compliance Office Quarterly Activity Report

The Ontario Energy Board is committed to providing regular public reports on the activities of the Compliance Office. This report provides details as to the level of activity as well as an overview of matters that have been resolved, during the period October 1 to December 31, 2005 (the OEB's 3rd quarter).

The report is separated into three sections dealing with each of the Compliance Office's roles:

1. **Compliance Management** - ensuring regulated energy companies meet their legal and regulatory obligations.

2. **Consumer Dispute Resolution** - facilitating the resolution of, or mediating disputes between regulated energy companies and consumers.

3. **Issues Management** – act as the primary point of contact for regulated energy companies to provide information and guidance regarding the implementation of regulatory obligations.

During the third quarter the Compliance Office has continued to focus our proactive activities on the compliance concerns identified in the Annual Compliance Plan. For more information about the Annual Compliance Plan, http://www.oeb.gov.on.ca/documents/compliance_program200506_260705.pdf. These priorities have guided our proactive compliance activity, as well as the prioritization of compliance allegations. A synopsis of significant compliance cases that were closed in the quarter is provided under the "Compliance Management "section of the report. These cases have been reported because of their potential broader applicability as part of the objective of informing regulated energy companies about their compliance obligations.

During the third quarter, the Compliance Office also issued four bulletins which provided guidance to regulated energy companies with respect to their legal and regulatory obligations. Further details on these bulletins can be found under the "Compliance Management" section of this report.

1. COMPLIANCE MANAGEMENT

Compliance Management refers to the review of an allegation of non-compliance which is reviewed to assess whether and to what extent a regulated energy company has breached a legal or regulatory obligation. Table 1 shows the number of compliance cases under review from October 1, to December 31, 2005, including those that have been closed and those that are on-going.

Table 1 – Compliance Cases		
Report for Q3 (Oct 1 – Dec 31)		
	Gas	**Electricity**
Open from Q2 (July 1 – Sept 30)	**5**	**25**
Open in Q3 (Oct 1 – Dec 31)	1	4
Closed in Q3	3	13
Open at end of Q3	3	16

<u>Significant Compliance Cases Closed during Q3 include:</u>

- ❒ A gas marketer was offering variable price natural gas contracts that were not consistent with the Code of Conduct for Gas Marketers and the *Consumer Protection Regulation*, O.Reg.200/02. In response to the Chief Compliance Officer's concerns, a revised pricing mechanism was proposed and the CCO determined that it satisfied the price disclosure requirements.

- ❒ A review of several electricity distributors' compliance with the Affiliate Relationships Code was undertaken. In one case that has been closed, an electricity distributor was determined to be operating a competitive services business with shared resources in a manner that was inconsistent with the Code. The distributor agreed to change the structure of the sharing and cease using shared resources where confidential information was involved. In another case, an electricity distributor, with a services affiliate, was providing services to its affiliate which did not comply with the Code's resource sharing provisions. The distributor has agreed to restructure certain business activities in response to a CCO determination.

- ❒ An electricity distributor was found in non-compliance due to charging rates that had not been approved by the OEB to an embedded distributor for wheeling services. Following the CCO's determination, the distributor refunded these charges to the embedded distributor.

- An electricity distributor’s Conditions of Service were determined to not be compliant with the Distribution System Code in respect of liability for unpaid electricity charges, as the Conditions of Service required that landlords co-sign their tenants’ application for service, and be jointly and severally liable for all charges. The Code does not allow a distributor to transfer arrears from one customer to another. Following a determination by the CCO, the distributor revised its Conditions of Service in light of these concerns.

- A distributor intended to recover costs associated with equipment repair, and both metered and un-metered power from an account holder, where the costs were incurred by a tenant of the account holder, and deny connection to a new tenant until the amounts were paid. The distributor was informed that it would be non-compliant to deny connection, and that collection from the landlord was inconsistent with the DSC.

- A retailer/marketer’s sales material was determined to be non-compliant with the Code of Conduct as the information would likely mislead consumers about prices in the energy market. The retailer/marketer promptly agreed to remove the information.

- A large-use customer alleged that an electricity distributor had not reclassified the customer properly when its demand fell. The distributor took the position that they should rely on the customer’s kVA or 90% of kVA for classification purposes. Following a determination by the CCO, the distributor agreed to retroactively reclassify the customer in accordance with its rate order and reimburse any difference in charges.

- A developer raised a concern over the way that an electricity distributor had calculated the capital contribution and associated rebates for a system expansion project. A developer alleged that an electricity distributor was not complying with the requirements of the Distribution System Code for the purpose of calculating the capital contributions and associated rebates for the developer’s system expansion project. The developed raised this concern given that it had received a rebate for a recent phase of the project but had not received rebates for the construction of early phases. The distributor reported that due to the costs for construction of the earlier phases, there was no surplus available to be rebated to the developer. However, the costs for the most recent phase were lower and as a result there was a surplus to be rebated. The Compliance Office had completed a review of this distributor’s economic evaluation practices and had determined these were in compliance. A review of the specific case lead to confirmation the distributor had acted appropriately.

The Chief Compliance Officer issued four bulletins during this period:

1. Bulletin 2005014 reinforced the obligation that electricity distributors operate only within their licensed service areas.
2. Compliance Bulletin 2005013 set out an expectation that electricity retailers and gas marketers provide a business card to consumers identifying the company and agent when marketing door to door.
3. Information Bulletin 2005012 provided guidance to electricity distributors regarding the reasons for rejecting a consumer's request to change to a retailer.
4. Information Bulletin 2005011 provided guidance regarding the switching of electricity suppliers from retailers to the RPP.

2. CONSUMER DISPUTE RESOLUTION SERVICE (CDRS)

The Consumer Dispute Resolution Service (CDRS) refers to the activity of the Compliance Office staff involvement in facilitating the resolution of a dispute between a regulated energy company and a customer. Resolution involves bringing the complaint to the attention of the regulated energy company and ensuring that the resolution of the matter is reasonable. Table 2 shows the number of CDRS issues/complaints that the Compliance Office helped to resolve, and those that are still being reviewed.

Table 2 – CDRS - Complaints Reviewed		
Report for Q3 (Oct 1 – Dec 31)		
	Gas	**Electricity**
Open from Q2 (July 1 – Sept 30)	33	13
Open in Q3 (Oct 1 – Dec 31)	194	110
Closed in Q3	109	61
Open at end of Q3	118	62

The CDRS issues typically involve the following types of issues:

Gas and Electricity Distributors – Billing practices such as: estimation practices, late payment charges and security deposit calculations.

Electricity Retailers and Gas Marketers – contract processing problems and sales agent conduct complaints.

3. ISSUES MANAGEMENT

Market participants are encouraged to direct questions regarding legal and regulatory obligations to the Ontario Energy Board through the Market Participant hotline and e-mail. Table 3 shows the total number of such enquiries responded to by staff within all branches of the OEB.

Table 3 – Market Participant Enquiries		
Report for Q3 (Oct 1 – Dec 31)		
	Gas	**Electricity**
Open from Q2 (July 1 – Sept 30)	0	10
Open in Q3 (Oct 1 – Dec 31)	17	223
Closed in Q3	17	225
Open at end of Q3	0	8

Market participants should expect a response within 7 calendar days. So far this year we have met this target with 93% of the enquiries.

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