Compliance Office Quarterly Activity Report

January 1, 2007 to March 31, 2007 (4th Quarter)

The Ontario Energy Board (OEB) is committed to publishing quarterly 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 were resolved between January 1 and March 31, 2007.

The quarterly reports are generally separated into three sections dealing with each role of the Compliance Office: compliance management, consumer dispute resolution and market participant enquiries. As this is the last quarterly report of the 2006-07 fiscal year, a fourth section has been added to provide a brief year-end summary of activities undertaken.

1. COMPLIANCE MANAGEMENT

Compliance Management refers to allegations of non-compliance which are 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 Phase 1 compliance cases under review during the 4th quarter, including those that have been closed and those that are on-going. Phase 1 cases encompass activity up to, and including, a determination of compliance or non-compliance by the Chief Compliance Officer (CCO).

Table 1 – Compliance Cases (phase 1)		
***Report for Q4** (Jan 1 – Mar 31)*		
	Gas	**Electricity**
Open from Q3 (Oct 1 – Dec 31)	0	17
Open in Q4 (Jan 1 – Mar 31)	16	8
Closed in Q4	9	3
Open at end of Q4	7	22

A synopsis of significant compliance cases closed during the quarter follows. These summaries cases are provided to help inform regulated energy companies about their compliance obligations and potential broader application.

- A compliance review was undertaken regarding a distributor's refusal to connect a building. The review found there was no non-compliance on the part of the distributor.

- Compliance staff conducted a review of compliance by an electricity distributor with respect to its collection of a pole attachment administration fee. The CCO determined that the charging of an average flat rate administrative fee was non-compliant with section 78(2) of the *Ontario Energy Board Act, 1998* (the *Act*). The distributor agreed to charge the customer the actual costs for setting up the account, not the average fixed charge.

- A natural gas marketer has submitted an action plan in response to a letter from the CCO that addressed a number of matters related to reaffirmation practices, agent conduct and marketing practices. Among other things, the marketer acknowledged the issues associated with paper-based contract reaffirmation practices and communicated that it will cease utilizing this method of contract reaffirmation.

- The Compliance Office closed two disputed signature cases against two natural gas marketers. The marketers confirmed that they had implemented the OEB's forgery protocol.

- Following a compliance review, the CCO requested that an electricity retailer submit an action plan addressing issues of the non-compliance with its reaffirmation practices and with agent conduct issues. The action plan is currently under review.

- The CCO issued a letter to a distributor requesting an action plan to address non-compliance with timeline requirements for a DSC generator connection assessment. The action plan is currently under review.

2. CONSUMER DISPUTE RESOLUTION SERVICE

Consumer Dispute Resolution Service (CDRS) refers to the activity of the Compliance Office in reviewing allegations of non-compliance filed by consumers against regulated energy companies. Review of the complaint includes bringing the complaint to the attention of the regulated energy company, assessing level of compliance or non-compliance and following up to ensure any resolution of the matter is reasonable. Table 2 shows the number of CDRS issues/complaints that were closed in the 4th quarter and those that are still being reviewed.

Table 2 – CDRS - Complaints Reviewed

Report for Q4 (Jan 1 – Mar 31)

	Gas	**Electricity**
Open from Q3 (Oct 1 – Dec 31)	58	15
Open in Q4 (Jan 1 – Mar 31)	99	81
Closed in Q4	56	80
Open at end of Q4	101	16

The CDRS issues typically involve the following types of issues:

Natural gas and electricity distributors – billing practices such as: estimation practices, late payment charges and security deposit calculations.

Electricity retailers and natural gas marketers – contract processing issues and sales agent conduct complaints.

3. PROVIDING INFORMATION TO MARKET PARTICIPANTS

The Compliance Office promotes increased awareness and understanding of regulatory processes for regulated entities to help prevent market participants from unknowingly failing to meet their obligations. Market participants are encouraged to direct questions regarding legal and regulatory obligations to the Board through a dedicated 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 in the 4th quarter.

Table 3 – Market Participant Enquiries		
Report for Q4 (Jan 1 – Mar 31)		
	Gas	**Electricity**
Open from Q3 (Oct 1 – Dec 31)	0	0
Open in Q4 (Jan 1 – Mar 31)	10	293
Closed in Q4	10	293
Open at end of Q4	0	0

Market participants should expect a response within 5 business days. During the third quarter, the Market Participant hotline received 303 enquiries, 100% of which were responded to within 5 business days.

The principal areas of enquiry included:
- 2007 incentive rate mechanism / electricity distribution rates
- Smart meters and related funding
- General Accounting Questions
- Connection of distributed generation
- Renewable Energy Standard Offer Program (RESOP)
- Net metering

4. SUMMARY OF COMPLIANCE OFFICE ANNUAL ACTIVITY

Overall Summary

One of the strategic objectives of the OEB is to enhance public confidence in the OEB's regulation through compliance programs. Each year, the Compliance Office develops an annual compliance plan to outline the priorities of the Office for the fiscal year. The priority areas for 2006-07 were identified as follows:

- Assisting regulated entities in better understanding the OEB's compliance process as well as the OEB's expectations in relation to compliance.
  - For details on activities undertaken in 2006-07 please reference summaries of compliance management and market participant enquiries below.
- Promoting a clearer understanding of the obligations of gas distributors under the Gas Distribution Access Rule (GDAR) with respect to gas distributor service quality and gas marketer relations.
  - In August 2006, the OEB amended GDAR to defer the implementation of service transaction requests to June 1, 2007. Compliance Office staff have continued to work with gas distributors and marketers through a working group to ensure timely implementation.
- Working with electricity distributors to ensure an orderly and efficient resolution of load transfers.
  - In October 2006, the Ministry of Finance announced a two-year extension of the electricity transfer tax exemption for publicly owned electricity utilities when they sell assets to other publicly owned electricity utilities. As a result of the extension, the OEB has revised the required completion date for all long-term load transfers (LTLT) to January 20009. Utilities are expected to file LTLT plans with the OEB by the end of 2007.
- Ensuring that electricity distributors and transmitters are complying with their regulatory requirements in terms of their affiliate relationships and business activities.
  - A bulletin was issued on July 10th to provide guidance to electricity distributors and transmitters in relation to compliance with the Affiliate Relationships Code (ARC).
    - Staff undertook extensive reviews of 6 distributors' compliance with the ARC, focusing mainly on issues involving the sharing of employees and confidential information, as well as transfer pricing. In all cases, it was determined that the distributors were not compliant with the ARC. Two of the distributors have modified their

activities to become complaint. Staff continue to work with the other distributors to develop appropriate compliance plans.

- Staff also reviewed the activities of 6 other distributors and their affiliates. In some cases these distributors modified their activities on their own initiative and approached the Compliance Office with a request to review their proposed organizational changes. In other cases, staff became aware of ARC issues with the distributor and undertook an investigation. In all of these cases, the Office and distributors were successful in implement changes which ensured the distributors were compliant with the Code.

- On January 25, 2007, the Compliance Office issued a bulletin which provided guidance to electricity distributors in relation to the provision of Conservation and Demand Management activities and compliance with various legal and regulatory obligations including their licence and the ARC.

- Undertaking appropriate reviews of affiliate relationships for natural gas distributors to ensure new requirements are being implemented.

    - Given the involvement of the natural gas distributors and stakeholders in a large number of OEB processes underway in the natural gas sector during the 2006-07 fiscal year, no activity was undertaken by the Compliance Office with respect to ARC compliance.

- Developing tools to assist electricity distributors in meeting their obligations for self-certification.

    - Compliance staff developed a guideline to assist distributors in assessing compliance with the ARC for the purposes of self-certification. Utilities are to file self-certification statements by the end of April 2007.

Compliance Management

Overall, the number of cases undertaken by Compliance Office staff decreased slightly over the prior year. However, the complexity of the cases has increased substantially. Staff worked closely with regulated entities to identify system issues and develop strategies for resolving the issues. Regulated entities have generally shown a willingness to make the necessary changes to ensure the continued operation of the market.

A synopsis of significant compliance cases that have been closed are shown under the Compliance Management section of each quarterly report. Summaries of these cases are included because of their potential broader applicability to the objective of informing regulated energy companies about their compliance obligations.

During the 2006-07 fiscal year, the Compliance Office issued 6 bulletins providing guidance to regulated companies on meeting their regulatory obligations. The bulletins included:

- guidance to licensed electricity distributors in relation to:
    - the provision of electricity conservation and demand management activities by distributors
    - compliance with section 71(1) of the *Act*
    - compliance with the ARC
    - the importance of complying with the Electricity Reporting and Record Keeping Requirements

- guidance to licensed electricity transmitters in relation to the allocation of costs for customer connections to the transmission system in accordance with the requirements of the Transmission System Code

- guidance to licensed electricity retailers and licensed electricity distributors regarding the final RPP variance settlement amount in relation to consumers that are enrolled by a retailer but remain on or return to the Regulated Price Plan

Consumer Dispute Resolution Service

During the 2006-07 fiscal year, the CDRS function dealt with a significant increase in consumer issues escalated for review by the Compliance Office. The increase can be attributed to a rise in the number of active electricity retailers and natural gas marketers with more consumer contacts and therefore the potential for an increase in consumer complaints.

In late 2006, as part of a continuing effort to inform consumers, the Compliance Office began publishing a chart providing an overview of all issues received from residential and other low volume consumers in relation to individual electricity retailers and natural gas marketers. The charts indicate the total number of issues received by the OEB's consumer relations centre and is broken down by category of issue. The statistics are presented for each retailer or marketer based on the number of issues raised per 1,000 new enrollments and renewals. Information on enrollments and renewals for this purpose is provided by the retailers and marketers and is not subject to independent review or audit by the OEB.

Market Participant Enquiries

In 2005, the OEB established the Market Operations hotline to assist market participants, providing them with a centralized point of contact through which to seek clarification or information from the OEB. In 2006-07, the hotline received 1,009 calls and e-mails and answered 97% of the enquiries within the five business day target.

Electricity distributors accounted for approximately 55% of market participant enquiries. A further 34% of enquiries were listed in the category “other” which included regular intervenors, consultants, market analysts and requests for information from other jurisdictions.

Areas with frequent enquiries included:

- 2007 electricity distribution rates – questions on filing requirements and model
- Smart meters – implementation and roll-out
- Regulated Price Plan – new prices and monthly variance settlement factors
- Licensing requirements – requests for information on renewal, fees and reporting
- Guidelines around distributor conservation and demand management activities
- Connection of distributed generation
- Renewable Energy Standard Offer Program (RESOP)
- Net metering

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