Ontario Energy Board
P.O. Box 2319
26th. Floor
2300 Yonge Street
Toronto ON M4P 1E4
Telephone: 416- 481-1967
Facsimile: 416- 440-7656
Toll free: 1-888-632-6273

Compliance Office

Commission de l'Énergie de l'Ontario
C.P. 2319
26e étage
2300, rue Yonge
Toronto ON M4P 1E4
Téléphone; 416- 481-1967
Télécopieur: 416- 440-7656
Numéro sans frais: 1-888-632-6273

Ontario

Compliance Office Quarterly Activity Report

Fourth Quarter 2007-08 Fiscal

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 compliance matters resolved between January 1 and March 31, 2008. As this is the final quarterly report of the 2007-08 fiscal year, the report provides a brief review of major activities during the 2007/08 fiscal year.

Highlights of other compliance activity undertaken in the fourth quarter include:

- The Compliance Office issued three bulletins during the quarter. One of the bulletins provided guidance to licensed electricity distributors with respect to the billing of net metered generators in accordance with Ontario Regulation 541/05 – Net Metering. The other two bulletins provided guidance to electricity retailers and natural gas marketers in relation to the consumer authorization required for Service Transaction Requests relating to a change from one competitive supplier to another, and guidance as to persons that authorize the supply of electricity or natural gas to residential premises.

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.

Throughout the fourth quarter the Compliance Office has continued to focus our proactive activities on the compliance concerns identified in the Annual Compliance Plan. 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 in “section of the report. These cases have been reported because of their potential broader applicability and as part of the objective of informing regulated energy companies about their compliance obligations.

Table 1 shows the number of compliance cases under review during the fourth quarter, including those that have been completed and the number on-going. The cases reported encompass activity up to, and including, a determination of compliance or non-compliance by the Chief Compliance Officer (CCO).

Table 1 – Compliance Cases		
Report for Q4 (Jan 1 – Mar 31)		
	Natural Gas	**Electricity**
Open from Q3	1	9
Opened in Q4	6	10
Phase 1 Completed in Q4	9	18
Open at end of Q4	4	19

- The Compliance Case performance metric of 85% of cases closed with a phase 1 determination letter within 150 days was achieved in both Q4 and for the year, with 100% achieved in Q4 and 97% attained for the year.

A synopsis of selected compliance cases underway or completed during the quarter follows

- The Compliance Office conducted a number of reviews related to allegations that consumers were being enrolled with multiple retail companies, although they had only contracted with one company. These allegations were investigated promptly and actions were taken by the licencees to remove these agents immediately from sales activities and to cancel the consumer's contracts. Following our reviews it was apparent that some agents were working for more than one company and in some instances had enrolled consumers with two different companies without the consumer's knowledge. Compliance staff undertook a review of several active retailer/marketer's sales training practices and internal compliance programs. This review provided staff with further knowledge of each company's practice and allowed us to address issues that required an immediate remedy. It also increased licencees awareness of their accountability as it relates to the conduct and actions of their sales staff.

- Compliance staff spent considerable time working on distributor connections of embedded generation facilities reviews and concerns regarding the generation connection processes of a distributor. The reviews resulted in a number of compliance cases being opened with respect to specific generation projects. The distributor filed a response which included an outline of its practices and plans to come into compliance in light of the large volume of generation requests. The distributor has filed an application with the Board for exemption from the

Distribution System Code timelines related to processing generator applications. Compliance Office staff continue to work on the concerns raised by individual generators during the exemption application process.

- The CCO identified a number of concerns with the reaffirmation practices of an electricity retailer. In particular, the retailer was unable to provide satisfactory evidence that the written reaffirmation was signed on a separate occasion than the contract. The retailer has ceased the use of written reaffirmations and has submitted an action plan for resolving outstanding reaffirmation issues with its customers.

- An electricity retailer was found to be non-compliant with the regulatory requirements in the RSC for the processing of service transaction requests by not obtaining specific written authorization from the consumer to terminate or resubmit a service transfer request. The CCO determined that the RSC specifies that a current retailer may only terminate a transfer request when "*acting upon specific written authorization from the consumer*" and must obtain a new authorization to resubmit a service transfer request where they have been notified of a "contest lost".

- A consumer advised the Compliance Office of an issue regarding the designation of his corporate account. The customer determined that his account should not have been charged the RPP rates but instead should have been charged using the hourly spot price. The consumer claimed that his distributor was unwilling to switch his account to the proper pricing mechanism and to refund his overpayment. The customer calculated that the difference in the two rates amounted to a savings of over $15,000. The Compliance Office contacted the distributor to discuss the matter. The distributor reported that this complaint arose in part because the distributor had not yet put a system in place to review customer classifications. The distributor has now developed a review system and as a result changed the status of the customer's account. They also calculated that the account would be credited a refund of approximately $20,000.

- A consumer filed a complaint that they had been disconnected without notice. The customer had made a payment arrangement with the distributor which required the customer to pay off outstanding arrears in two payments. The customer did not make the first payment because she planned to pay the entire amount by the due date of the second payment. Since the distributor did not receive the first payment, the customer was disconnected. The distributor admitted that it did not send any written notice before the disconnection. The distributor's view was that as part of the negotiation of the payment arrangement, the customer was verbally told that a missed payment would result in disconnection. The distributor believed that this personal contact would suffice as a notice. The Compliance Office clarified the expectation that customers should always receive a formal disconnect notice prior to any disconnection action. The distributor agreed to refund the disconnect/reconnect charge and has revised its practices to ensure a written disconnect notice is always provided.

- The Compliance Office concluded the Phase II monitoring aspect of a previous Phase I Non-compliance determination regarding a transmitter's allocation of costs associated with connection of a large generation facility to the transmission system. Through correspondence and meetings with the parties, the Compliance Office facilitated agreement on the principles to be used in allocating various transmission system cost elements associated with the connection. In Phase III, the Compliance Office will continue to monitor the detailed calculation of allotted costs in accordance with the agreed upon principles.

- The Compliance Office identified a trend in the fourth quarter related to the reaffirmation practices of two particular retailers. Specific practices have been noted that are inconsistent with the guidelines as set out in Compliance Bulletin 200702. Cases have been established for both of these companies.

- Other issues related to misrepresentation of information, contract content issues, reaffirmation issues, script content issues and forgeries are also being reviewed. A CCO determination letter has been issued in 1 case and staff is currently working with the retailers/marketers on implementation of action plans. Issues related to agent behavior have been identified to the specific retailers and actions by the licensees have been undertaken.

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 new CDRS issues/complaints that were reviewed and closed in the quarter.

Table 2 – CDRS - Complaints Reviewed

Report for Q4 (Jan 1 – March 31)

	Natural Gas	Electricity	Business Plan Performance Metric Achievement*
Reviewed and Closed in Q4	103	125	90%
Year End			91%

* resolution for 90% of complaints facilitated within 90 days

The CDRS complaints typically involve the following types of issues:

Natural gas and electricity distributors

Billing practices such as: estimation practices, meter readings, late payment charges and security deposit calculations, disconnection, landlord/tenant, customer service. Some of these complaints resulted compliance cases being opened to further review the practices of the utilities and their impact on consumers. The results of those reviews included utilities taking voluntary action to come into compliance and to address the consumers concerns.

Electricity retailers and natural gas marketers

Contract management, agent conduct complaints and customer service were the most predominant during the period. Issues varied from agents misleading consumers about rebates and Regulated Price Plan changes, to retailers not completing cancellation requests. Compliance reviews were conducted related to some of the contract management and agent conduct allegations. The Compliance Office raised some

significant concerns about retailers obligations to ensure that their contracting practices are consistent with their regulatory obligations and that sales agents of the company are acting in accordance with the applicable Codes. Licencees responded with plans to bring themselves into compliance with the requirements.

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 third quarter.

Table 3 – Market Participant Enquiries

Report for Q4 (Jan 1 – March 31)

	Standard	Non-Standard
Open from Q3	0	0
Opened in Q4	180	9
Closed in Q4	176	8
Open at end of Q4	4	1

Market participants should expect a response to a standard enquiry within 5 business days. During the fourth quarter, the Market Participant hotline responded to **184** enquiries, 100% of which were responded to within 5 business days. Of the **8** non-standard enquiries closed during the quarter, 100% were responded within the 45 business day metric. As of the year end, 98% of the 779 standard MPE's total were responded to within 5 business days and 99% of the 42 non-standard MPE's were responded to within 45 days.

The principal areas of enquiry included:

- Renewable Energy Standard Offer Program and distributed generation
- 2008 IRM (Incentive Rate Mechanism) Applications
- Licensing requirements
- Smart Meters / Sub-metering

4. SUMMARY OF COMPLIANCE OFFICE ACTIVITY IN 2007-2008

One of the strategic objectives of the OEB is to enhance public confidence in the OEB's regulation through compliance programs. In 2007-08 the Compliance office focused on activities that would enhance licensee compliance, resolve significant consumer issues (especially those related to systemic issues within the retail industry) and enhance industry knowledge of their regulatory obligations. The following highlights some of the key areas of work completed in 2007-08:

Compliance Management

- The Board received 429 allegations regarding disputed consumer authorizations in 2007-08 through the Consumer Relations Centre. 42 allegations were found to be valid following a review of the consumer's signature and the contract. . As a result of those reviews 6,900 consumers were notified in writing that they had been enrolled by an agent that had been part of a forgery allegation. Any consumers that cancelled their agreements were not subject to penalty and were reimbursed for the period they were on contract.

- Some of the most common consumer complaints throughout the year related to Agent Conduct and Contract Management. This year 40 % of the compliance cases were directly related to consumer complaints associated with energy retailing.

- The Compliance Office undertook a review of agents working for multiple companies. This review included an investigation of agents allegedly enrolling consumers with multiple companies without the consumers consent. Each consumer allegation was resolved through cancellation of the contract. As part of a larger review the Compliance Office has started a review of licensee practices associated with the hiring, training and internal compliance programs focused on agent conduct. That review is still ongoing.

- A number of compliance reviews were conducted involving the generation connection processes of a large distributor as it relates to specific generation projects. The distributor has filed a response that includes an outline of its practices and plans to come into compliance. The distributor has filed an application with the Board for exemption from the Distribution System Code timelines related to processing generator applications. Compliance Office staff continue to work on the concerns raised by individual generators during the exemption application process.

Compliance Bulletins

During the 2007-08 Fiscal Year the Compliance Office issued 7 bulletins, they were as follows:

1. Compliance Bulletin 200702 - Information regarding legal and regulatory requirements associated with the reaffirmation of energy contracts with low-volume consumers

2. Compliance Bulletin 200703 - Information regarding legal and regulatory requirements associated with metering, settlement and billing of embedded retail generation facilities

3. Compliance Bulletin 200704 - Provides guidance to licensed electricity distributors and licensed electricity retailers in relation to the effective date of service transfers

4. Compliance Bulletin 200705 - Intended to remind licensed electricity distributors of their obligation under the Distribution Settlement Code to provide fire and other public safety notices prior to disconnecting a property.

5. Compliance Bulletin 200801 - 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

6. Compliance Bulletin 200802 - Intended to provide guidance to licensed electricity distributors with respect to the billing of net metered generators in accordance with Ontario Regulation 541/05 – Net Metering

7. Compliance Bulletin 200803 - Intended to provide guidance to licensed electricity retailers and licensed natural gas marketers in relation to the consumer authorization required for Service Transaction Requests relating to a change from one competitive supplier to another.

- The Distribution System Code, Section X, requires distributors to file plans to complete LTLT. Most electricity distributors submitted their plans related to the elimination of Long Term Load Transfers as defined by the Distribution System Code, prior to end of December 2007. Compliance staff issued a series of letters to distributors that failed to submit their plans by year end and were successful in obtaining plans from the majority of licencees. Some plans were submitted without complete information and Compliance staff have been working with licencees to address the outstanding issues

- Compliance Office staff facilitated and implemented the amendments to the Electricity EBT Standards. The Retail Settlement Code prescribes the use of an Electronic Business Transaction (EBT) System for the exchange of data between licensed electricity distributors and retailers. The implementation of the amended EBT Standards, version 4.0 was completed on January 21st, 2008.