Ontario Energy Board

Commission de l'énergie de l'Ontario

Consumer Snapshot

July to September 2011

Aussi disponible en français

Introduction

Welcome to the July to September 2011 issue of the Ontario Energy Board's Consumer Snapshot.

Published quarterly, the Snapshot is a simple overview of the energy market and how the OEB is acting in the interests of you, the consumer, to ensure a fair and efficient marketplace.

Inside you will find details on the questions, concerns and complaints raised by consumers to the OEB's consumer relations area. You will also find information and statistics intended to help you better understand the types of issues raised to the OEB by consumers ("**Consumer Contacts**", page 3) and how complaints are handled ("**Consumer Complaints**", page 6).

Our "**Escalated Consumer Complaints"** and **"Compliance Management**" sections (beginning on page 8) identify what the Board has been doing to resolve consumer disputes and ensure that suppliers (retailers and marketers), utilities, and unit sub-metering providers are complying with their legal and regulatory obligations. The Board can also take enforcement action against a licensed or regulated company in appropriate cases.

Informing the public about their rights and responsibilities in the energy sector is an important part of the OEB's work. We work with community groups, utilities, various other agencies and the media to achieve this goal. Check out which communities we've visited recently under the "**Consumer Outreach**" section (starting on page 11) and how you can bring the OEB to your community.

July to September 2011—Quick Facts

► **5,938** consumer contacts

► **892** complaints registered

► **240** complaints escalated for further review

► Approximately **$78,000** returned to consumers for waived liquidated damages and reimbursements by regulated companies

Consumer Contacts

Consumers contact the OEB by phone, letter, fax, e-mail or through our internet-based web form. Some consumers have a simple enquiry while others look to raise a concern or file a complaint about a company regulated by the OEB.

Enquiries are general requests for information or clarification about the energy sector.

Examples:

- What are the current time-of-use electricity periods / prices?
- Where can I find information about any applications my utility has before the OEB?
- What should I consider before signing an energy contract?

On occasion, consumers may wish to express their dissatisfaction with an aspect of the energy sector. In some cases the OEB does not have jurisdiction over the area of their concern. In other cases the consumer may not have enough information to register a complaint. For these consumers the OEB registers a **Concern** in our tracking system.

Examples:

- Disagree with smart meters or time-of-use pricing.
- Door-to-door agent gave incorrect information but consumer does not recall what company they worked for.
- Consumer signed a hot water tank rental contract.

The OEB also logs **Complaints** from consumers who claim their supplier, utility, or unit sub-metering company did not follow its legal or regulatory obligations.

Examples:

- Electricity utility charged a greater security deposit than is allowed under OEB rules.
- Supplier did not verify the contract as required under legislation.
- The consumer’s electricity and/or natural gas contract was renewed without the consumer receiving a renewal package.

Consumers may raise several issues related to their primary reason for contacting the Board. The OEB notes each issue raised in the consumer’s enquiry, concern or complaint. The charts on the following two pages show the top 10 issues raised by consumers for Suppliers and for Utility / Other during the last quarter. Issues raised by consumers are not necessarily indicative of non-compliance.

Top 10 Issues Raised – Supplier

Rank	(Rank Last Quarter)	Issue Raised	Examples
1	(1)	No Copy of Contract	No copy of existing contract, consumer does not recall signing contract, copy of contract not provided when requested
2	(2)	Cancellation Charges	Charge for exiting contract too high, charges unfairly applied (e.g. moving with no service at new location)
3	(3)	Contract Renewal	Did not receive renewal package, renewed after cancellation request, misleading renewal notice
4	(6)	Cancellation Request Not Processed	1—2 billing cycles has passed without cancellation, company has no record of cancellation request
5	(4)	General Contract Issues	Miscellaneous contract issues not otherwise captured
6	(5)	Reaffirmation	Declined contract on reaffirmation call, do not recall receiving reaffirmation call, attempt to reaffirm during 10-day cooling off period, person not authorized to reaffirm
7	(9)	Misrepresentation of Identity	Agent claimed affiliation with government, utility or Ontario Energy Board
8	(8)	Misrepresentation of price	Agent guaranteed savings, consumer told no fee to cancel, agent compared contract price to only a portion of regulated rate (e.g. highest TOU period)
9	(7)	Disputed Signature	Account holder or spouse's name signed on contract but is alleged not to be their signature
10	(--)	Renewal – natural gas	Agent did not follow renewal script, attempted to renew after told not interested, renewal package not received, required information missing from renewal package

Top 10 Issues Raised – Utility & Other

Rank	(Rank Last Quarter)	Issue Raised	Examples
1	(1)	Billing	Errors in billing amount, no bills received, transfer of arrears from other customer
2	(4)	Utility Service Quality	Frequency of power outages, damage to property, no response to letters / calls, long phone wait times, not notified of planned outages
3	(6)	Disconnection / Reconnection	Disagree with disconnection policy, disconnected without cause, concern with reconnection schedule or charges
4	(3)	Meters	Meter read incorrect, new meter registering higher consumption, dispute meter testing results
5	(2)	Smart Meters / Time of Use	Do not want a smart meter, concern with TOU prices or periods, increased bill amount with TOU prices
6	(5)	Rate Issues	Concern with changes to rates, incorrect rate applied, late payment charges
7	(--)	Carbon Credits	Questions from consumers regarding carbon credit contracts / offers by unregulated entities. As these fall outside of the Board's jurisdiction, consumers are referred to the Ministry of Consumer Services.
8	(8)	Security Deposits	Disagree with amount requested, consumer feels deposit requested after disconnection for non-payment is unfair, additional deposit requested by utility, not provided option to pay over 4 billing periods
9	(--)	Rate Classifications	Change in classification without notice, dispute rate classification applied by utility, disagree with seasonal rate classification
10	(--)	Estimated Billing	Bill reconciliation / true-up too high, over-estimate billing, under-estimated billing

Consumer Complaints

The OEB encourages consumers with a complaint about their supplier, utility, or unit sub-metering provider to contact the company first to try and resolve the complaint.

If the consumer has contacted the company but the complaint has not been resolved to the satisfaction of the consumer, the consumer may file the complaint with the OEB's Consumer Relations group. Consumer Relations will first assess whether the OEB has authority or jurisdiction in the area of the consumer's complaint, and advise the consumer of the complaint resolution process.

Once a consumer complaint is filed on a matter within the Board's authority, the OEB contacts the company, providing them with a summary of the consumer's complaint and asking for the company's response. Generally companies have 21 days to respond.

The following chart shows the broad categories of complaints received by Consumer Relations for the months July to September 2011.

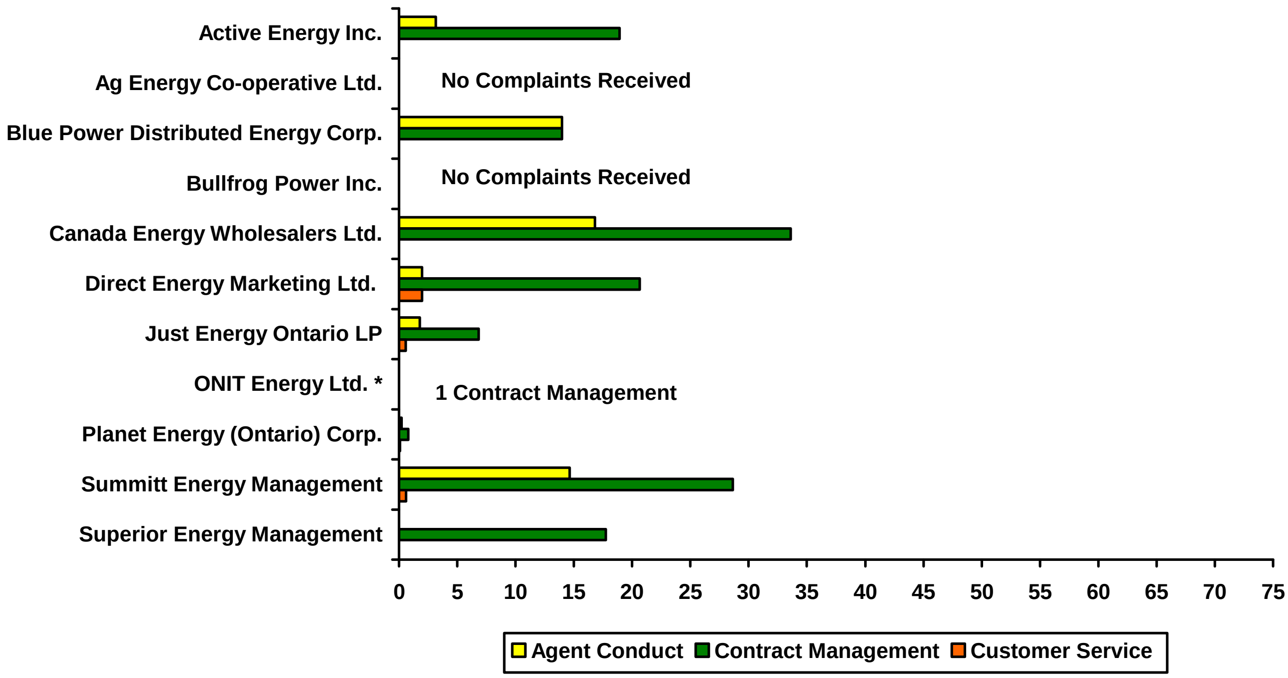
Supplier—Contract Issues	452
Utility – Billing / Metering	138
Utility —Customer Service	137
Supplier—Agent Conduct	99
Supplier—Customer Service	27
Other	24
Utility – General	8
Utility – Facilities	7
Total	892

The charts on the next page show complaints against Suppliers broken out by energy sector and company based on the number of complaints received per 1,000 new enrollments and renewals in the period. Information on enrollments and renewals used for this purpose are reported by the suppliers and may not have been independently reviewed or audited by the OEB.

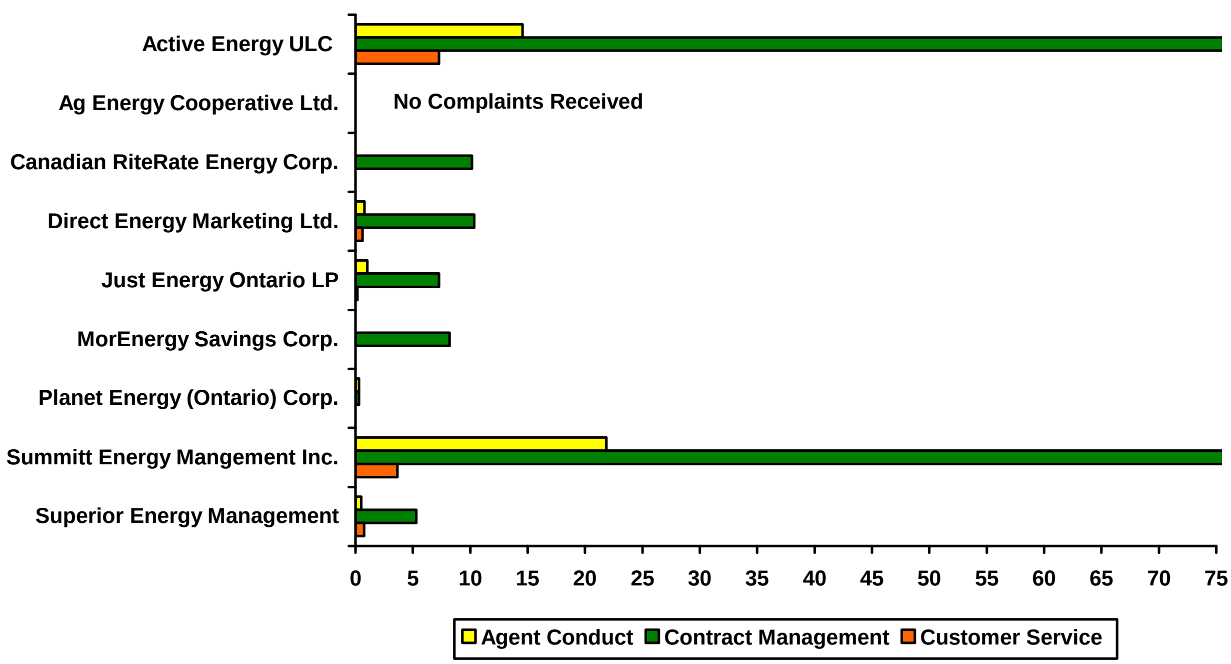
If the supplier did not enroll or renew any consumers during the reporting period, the chart will show the actual number of consumer complaints received over the period.

Low Volume Consumer Complaints Received by the OEB
(per 1,000 new and renewed customers enrolled)

Electricity Sector



Natural Gas Sector



*no new or renewed customer enrolment numbers reported– total number of complaints received by OEB shown

Escalated Consumer Complaints

Consumer complaints are escalated when no resolution has been reached through the initial complaint process.

Staff may make enquiries and gather information, as appropriate, to mediate or resolve the complaint.

During this process, staff determines whether there are reasonable grounds to suggest that a licensed or regulated company has contravened or is likely to contravene any of its legal or regulatory obligations (see "**Compliance Management**" on next page).

	Supplier	Utility	Unit Sub-Metering Provider	**Total**
Complaints Escalated	174	58	8	**240**
Percent of Total	73%	24%	3%	

Escalated complaints typically involve the following types of issues:

Suppliers – contract management and processing issues and sales agent conduct complaints.

Natural Gas and Electricity Utilities – billing practices such as estimation practices, meter readings and late payment charges, as well as other customer service issues.

Unit Sub-Metering Providers – billing practices and other customer service issues.

During the quarter, staff closed **708** first level complaints that were resolved through the complaints process. These were comprised of **500** supplier complaint responses and **208** utility complaint responses[1]. Staff also monitored responses from licensed and/or regulated companies to these complaints to ensure consumers received an appropriate response.

[1] These statistics are based only on consumer complaint responses managed through the e-Service Portal. Major utilities began using the e-Service Portal in May 2011.

Compliance Management

Compliance files can originate from a staff inspection into the activities of a regulated company (see further information below in relation to the *Energy Consumer Protection Act, 2010*), an allegation made by a third party, or a general concern related to a licensed or regulated company's activities.

Staff reviewing and/or attempting to resolve an escalated consumer complaint may identify an issue that could impact many consumers, or encounter a situation where the licensed or regulated company disputes any wrongdoing. In these cases, a formal compliance file may be opened.

Incidents that involve more serious allegations of wrongdoing, like a disputed signature, may also automatically result in the opening of a formal compliance file.

When a formal compliance file is opened, staff will assess whether, and to what extent, a licensed or regulated company may have breached a legal or regulatory obligation. In other words, staff determines whether there is sufficient evidence to suggest that a company may not be complying with its legal or regulatory obligations.

The following table shows the number of active compliance cases under review during the quarter, including those that have been completed this quarter and the number that are ongoing.

	Electricity	**Natural Gas**
Open from previous quarter	**12**	**13**
Opened in this quarter	**1**	**11**
Completed in this quarter	**12**	**19**
Open at end of this quarter	**1**	**5**

Most compliance cases underway or completed during the quarter involved an allegation of a disputed signature on a supplier contract.

During the quarter, suppliers reported the cancellation of **99** contracts resulting in a total reimbursement amount of approximately **$78,000.**

Enhancing Consumer Protection

Energy Consumer Protection Act (ECPA) Inspections

Inspections were conducted on the 11 suppliers who had certified their compliance with the requirements of the ECPA on January 1, 2011. The purposes of the inspections were to assess the extent to which:

- supplier practices and processes were in compliance with all applicable legal and regulatory requirements; and,
- supplier systems, processes and business practices were appropriate in terms of facilitating and achieving compliance.

Deficiencies were noted for all 11 suppliers that were inspected. As a result, on August 25, 2011, the Board issued written Notices to all companies that were inspected advising that it intended to make enforcement orders related to allegations of non-compliance with the ECPA.

Supplier	Allegations of Non-Compliance	
Active Energy	- business cards did not state address or Gas Marketer licence number as required - contract requirements – failed to include applicable cancellation rights; incorrect placement of consumer acknowledgement of receipt of documents; pre-ECPA content still included in contract - price offered in contract did not match price comparison - contract renewals / extensions - contract renewed failed to state licence number; contract renewed failed to include required cancellation statement; text-based copy of contract not included in renewal package; only one copy of disclosure statement and price comparison included in renewal package (two required); disclosure statement included in renewal package not Board approved version for that purpose; renewal form does not contain telephone number for OEB's consumer relations centre - written confirmations of cancellations were not sent to 11 consumers following cancellation over the phone - verification calls – confirmed consumer name but not if they were the account holder; did not advise the call was being recorded; skipped several steps in the Board-approved script; gas verification script used for electricity contract; failed to end verification process when advised by the consumer of an act or omission that appeared to be an unfair practice	- Assurance of Voluntary Compliance filed admitting to the deficiencies, confirming the deficiencies have been remedied and committing to ongoing compliance. - Agreed to pay administrative monetary penalty of $20,000 - Board Order issued on September 12, 2011 accepting the Assurance.

AG Energy Co-operative Ltd.	- training material for salespersons, verification agents and renewal agents did not include adequate and accurate material in the areas of: market structure; behaviour that constitutes and unfair practice, information relating to renewals and extensions, how electricity and gas pricing works - proper records not retained on who conducted training for each salesperson; signed statements that agents will comply with all applicable legal and regulatory requirements - identification badges failed to state salesperson is not associated with or representing any distributor, government or the OEB - contract requirements – font size less than 12 pt as required; fails to state the website address of the company; failed to include applicable cancellation rights; does not contain acknowledgement to be signed by consumer confirming receipt of a text-based copy of the contract; electricity contract allows for automatic renewal - written confirmation of telephone cancellation was sent in excess of required timeframe - does not maintain a compliance monitoring and quality assurance program	- Assurance of Voluntary Compliance filed admitting to the deficiencies, confirming the deficiencies have been remedied and committing to ongoing compliance. - Agreed to pay administrative monetary penalty of $22,500 - Board Order issued on September 12, 2011 accepting the Assurance.
Bullfrog Power Inc.	- contract requirements – contract states it is valid for 6 months however terms and conditions indicate valid for one year; failed to include applicable cancellation rights; missing place for consumer's printed name at the bottom of the contract; does not contain acknowledgement to be signed by consumer confirming receipt of a text-based copy of the contract; pre-ECPA content still included in contract - price comparison contained promotional statement	- Assurance of Voluntary Compliance filed admitting to the deficiencies, confirming the deficiencies have been remedied and committing to ongoing compliance. - Agreed to pay administrative monetary penalty of $15,000 - Board Order issued on September 12, 2011 accepting the Assurance.

Canadian RiteRate Energy Corp.	- contract requirements - failed to include applicable cancellation rights; does not contain acknowledgement to be signed by consumer confirming receipt of a text-based copy of the contract	- Assurance of Voluntary Compliance filed admitting to the deficiencies, confirming the deficiencies have been remedied and committing to ongoing compliance. - Agreed to pay administrative monetary penalty of $5,000 - Board Order issued on September 12, 2011 accepting the Assurance.
Direct Energy Marketing Ltd.	- contract requirements - failed to include applicable cancellation rights - where not charging a consumer cancellation fees for changing suppliers, did not notify consumer of pending transfer requests as required	- Assurance of Voluntary Compliance filed admitting to the deficiencies, confirming the deficiencies have been remedied and committing to ongoing compliance. - Agreed to pay administrative monetary penalty of $15,000 - Board Order issued on September 12, 2011 accepting the Assurance.
Energhx	- training material for salespersons and verification agents did not include adequate and accurate material in the areas of: how to complete a contract application, use of business cards and ID badges; disclosure statements and price comparisons, consumer cancellation rights, renewals and extension; persons with whom Energhx may enter into, verify, renew or extend a contract - training test pass mark set at a minimum 75% versus 80% required - did not require salespersons and verification agents to sign a statement they will comply with all legal and regulatory requirements; timeframe for maintaining salesperson agents less than required - business card failed to state the licence numbers issued by the Board - identification badges - failed to state salesperson is not associated with or representing any distributor, government or the OEB - contract requirements –failed to include	- Board hearing requested

	applicable cancellation rights; signature for supplier's salesperson in wrong location in relation to consumer acknowledgement - incorrect information in document control section of price comparison - verification calls – verification representative did not identify themselves to the consumer as calling on behalf of company; did not confirm whether speaking to account holder or agent of the account holder; did not confirm whether consumer was comfortable proceeding in English; did not advise the consumer the call was being recorded - does not maintain a compliance monitoring and quality assurance program	
Just Energy Ontario LP	- identification badges - failed to state salesperson is not associated with or representing any distributor, government or the OEB - contract renewals / extensions - contract renewed failed to state licence number; contract failed to include information on whether the contract may be assigned; renewal form does not contain telephone number for OEB's consumer relations centre - incorrect version of disclosure statement and price comparison included in renewal package - incorrect price comparison provided to consumer - renewal calls – did not confirm if speaking to account holder or agent of account holder - representatives of affiliate company undertaking multi-level marketing failed to wear ID badges	- Assurance of Voluntary Compliance filed admitting to the deficiencies, confirming the deficiencies have been remedied and committing to ongoing compliance. - Agreed to pay administrative monetary penalty of $40,000 - Board Order issued on September 12, 2011 accepting the Assurance.
morEnergy Savings Corp. / Blue Power Distributed Energy Corp.	- training material for salespersons and verification agents did not include adequate and accurate material in the areas of: market structure; information about verification and information relating to consumer cancellation rights - proper records not retained on signed statements that agents will comply with all applicable legal and regulatory requirements - identification badges - failed to state salesperson is not associated with or representing any distributor, government or the OEB - business cards failed to state the licence numbers issued by the Board - contract requirements –font size less than	- Assurance of Voluntary Compliance filed admitting to the deficiencies, confirming the deficiencies have been remedied and committing to ongoing compliance. - Agreed to pay administrative monetary penalty of $40,000 - Board Order issued on September 12, 2011 accepting the Assurance.

	12 pt as required; failed to include applicable cancellation rights; incorrect information regarding calculation of cancellation fees; provides for only one signature acknowledging receipt of terms and conditions and agreement to contract; signature for supplier's salesperson in wrong location in relation to consumer acknowledgement; pre-ECPA content still included in contract - written confirmation of telephone cancellation was not issued - does not maintain a compliance monitoring and quality assurance program - verification calls – confirmed consumer address but not correct spelling of address; deviate from Board-approved script omitting information; confirmed receipt of disclosure statement and price comparison but did not ask if consumer had signed; did not confirm if speaking to account holder or agent of account holder; provided incorrect website address for OEB; provided incorrect information regarding when cancellation fees would apply; did not inform consumer about the Ontario Clean Energy Benefit; did not confirm the consumer's telephone number; did not confirm consumer's account number; failed to end a call when advised by the consumer of an act or omission that appeared to be an unfair practice; did not confirm the spelling of the consumer's name and address	
Planet Energy (Ontario) Corp.	- identification badges - failed to state salesperson is not associated with or representing any distributor, government or the OEB - business cards failed to state company's website address as required - written confirmation of telephone cancellation was issued in excess of the required timeframe	- Assurance of Voluntary Compliance filed admitting to the deficiencies, confirming the deficiencies have been remedied and committing to ongoing compliance. - Agreed to pay administrative monetary penalty of $30,000 - Board Order issued on September 12, 2011 accepting the Assurance.

Summitt Energy Management Inc.	- contract requirements –signature for supplier's salesperson in wrong location in relation to consumer acknowledgement - price information in the electricity price comparison template did not match the price of the program selected by the consumer	- Board hearing requested
Superior Energy Management	- contract requirements - failed to include applicable cancellation rights - text-based copy of contract not included in renewal package and only one copy of disclosure statement and price comparison included (two required)	- Assurance of Voluntary Compliance filed admitting to the deficiencies, confirming the deficiencies have been remedied and committing to ongoing compliance. - Agreed to pay administrative monetary penalty of $25,000 - Board Order issued on September 12, 2011 accepting the Assurance.

Subsequent to the original inspections identified above, four new suppliers submitted certificates of compliance, and three suppliers submitted further certificates of compliance in respect of new activities. Board staff has commenced inspections related to these certificates which should be completed in early 2012.

<u>Direct Energy Assurance of Voluntary Compliance</u>

On September 20, 2011, the Board accepted an Assurance of Voluntary Compliance from Direct Energy. The Assurance responds to a Board staff inspection of Direct Energy's business practice in calculating early termination fees. In several instances Direct Energy's methodology for calculating early termination fees was inconsistent with the terms and conditions set out in its customer contracts.

The issue raised affects Direct Energy customers who, between 2004 and 2010, were invoiced for an early termination fee after requesting to cancel their contract with the company prior to the end of the contract term.

Invoices for 7,860 of these early termination inquiries resulted in overcharges to customers which totaled approximately $950,000. Another 6,627 invoices resulted in undercharges to customers which totaled approximately $2 million.

Direct Energy has agreed to reimburse all customers who paid an overcharge, with interest. Direct Energy has also agreed to pay the Ontario Energy Board an administrative penalty of $700,000. These funds (and any outstanding overpayments where Direct Energy is unable to contact the affected customer) will be paid to the Ontario Energy Board and used to support consumer education, outreach and other activities in the public interest.

MxEnergy Assurance of Voluntary Compliance

MxEnergy reported 29 renewals of gas contracts for the period January 1, 2011 to March 31, 2011 as part of its filings under the Board's Reporting and Record Keeping Requirements.

Contrary to Code requirements, MxEnergy failed to file a Certificate of Compliance prior to conducting this renewal activity. As a result, a Notice of Intention to Revoke MxEnergy's licence was issued by the Board.

The Notice of Intention was resolved by the Board accepting an Assurance of Voluntary Compliance from MxEnergy. The terms of the Assurance were for MxEnergy to file a Certificate of Compliance and pay a monetary penalty of $50,000. MxEnergy notified potentially affected customers and provided those customers with the option to cancel their contract without cost or penalty

To learn more about the Board's compliance and enforcement policies and processes, visit the OEB website at www.ontarioenergyboard.ca

Market Participant Enquiries

An important element in achieving compliance is ensuring that licensed and regulated companies are aware of and understand their legal and regulatory obligations. To facilitate the informal resolution of potential issues, the Board has established a process through which market participants will receive a timely response from Board staff to any questions they may have.

The following table shows the total number of such enquiries received by OEB staff in the quarter.

July	August	September
63	42	56

The principal areas of enquiry included:

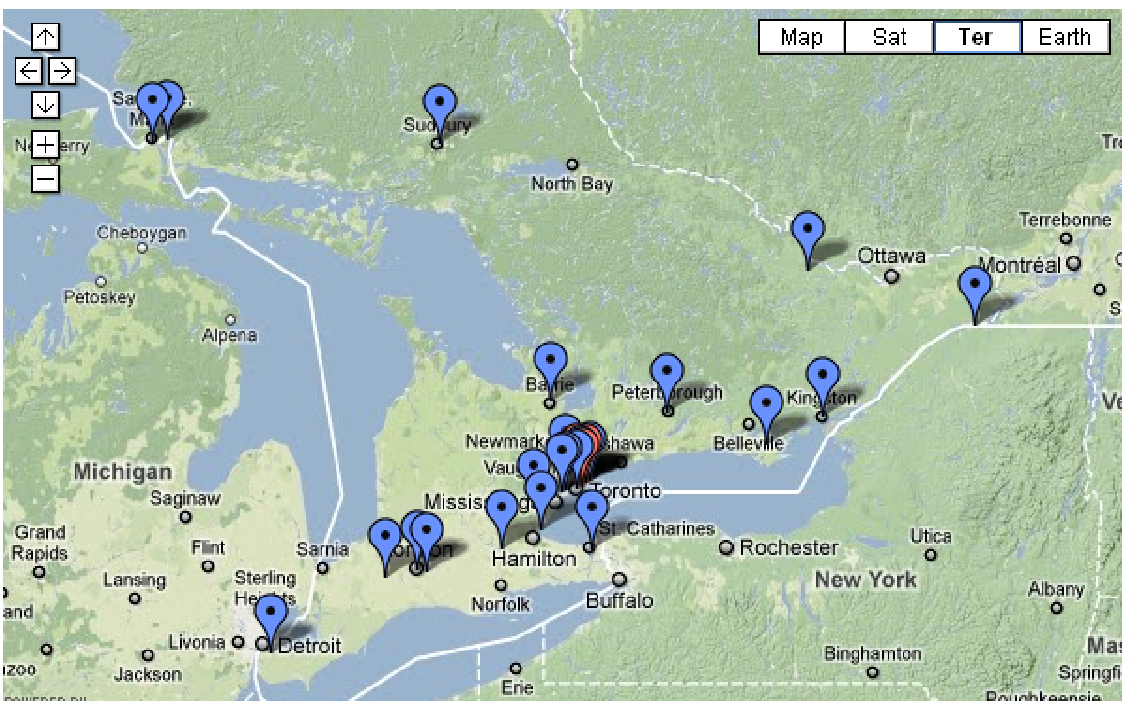
- Incentive Rate Mechanism
- Reporting Requirements
- Licensing Requirements

Consumer Outreach

The OEB's consumer outreach work is aimed at informing residential and small business consumers about the energy sector, their options for energy supply and the OEB's role in facilitating the resolution of consumer issues. Efforts have included trade shows, government services fairs, legal clinics, social agency events, library presentations and community tour days. Meetings are regularly held with staff at MPP constituency offices and utilities to discuss consumer issues. We have also developed a series of 'Take Charge' consumer brochures explaining energy bills, time-of-use electricity pricing and energy contracts under the new *Energy Consumer Protection Act*.

Over the next year the OEB plans to continue delivering information directly to consumers so they can become more engaged and informed. This year's initiatives include a number of new information brochures, more online tools and community outreach throughout the year. Our online energy bill calculators continue to be among the OEB's highest visited web pages.

If you would like an OEB representative to provide your region or group with useful information on topics like how energy prices are set, participating in Board processes or how to make an informed choice on energy contracts, please contact us using the information on the following page.



Recent OEB consumer outreach locations.

How to Contact the Ontario Energy Board Consumer Relations:

1-877-632-2727 (toll-free within Ontario)

416-314-2455 (within the GTA or outside Ontario)

consumerrelations@ontarioenergyboard.ca