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January 17, 2018

**VIA E-MAIL**
**CONFIDENTIAL**

Mr. Rafe Engle
R.S. Engle P.C.
26 Sussex Avenue
Toronto, ON M5S 1J7

**PRIVILEGED AND CONFIDENTIAL – DRAFT**

Dear Rafe:

**Twitter Matter**

Further to your email of January 4, 2018, we are writing to respond to the issues you raised concerning a complaint received by Ad Standards on December 28, 2017 with respect to a tweet from Premier Kathleen Wynne highlighting the government's policy decision to reduce electricity bills by 25%.

The suggestion in your email that the Ministry breached its commitment to Ad Standards is very concerning to my client and it strongly opposes this view. It is our view that thehe Premier's tweet was not part of the advertising campaign in issue. The complainant acknowledges this. It remains the case that the Ministry has not revived the advertising campaign.

We elaborate on these points in the remainder of this letter.

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### *1. The Premier's Tweet is not an extension of the Fair Hydro Plan Campaign*

The measures taken to reduce Ontarians' electricity bills by 25% on average under the Fair Hydro Plan is government policy. On March 2, 2017, the Office of the Premier released a news release indicating that the government would take measures to lower electricity bills by 25% on average for all residential customers.[1] On May 11, 2017, the Minister of Energy introduced the *Fair Hydro Act, 2017* to direct the

[1] See Ontario, Office of the Premier, "Ontario Cutting Electricity Bills by 25 Per Cent" (March 2, 2017), online: https://news.ontario.ca/opo/en/2017/03/ontario-cutting-electricity-bills-by-25-per-cent.html:

> Ontario is lowering electricity bills by 25 per cent on average for all residential customers as part of a significant system restructuring that will address long-standing policy challenges and ensure greater fairness.
>
> Starting this summer, Ontario's Fair Hydro Plan would provide households with this 25 per cent break.

Ontario Energy Board to implement the reduction (see Appendix "**B**").[2] On May 31, 2017, the Legislature passed the *Fair Hydro Act, 2017*.[3] On June 22, 2017, the Ontario Energy Board announced how bills would be reduced by an average of 25% as of July 1, 2017.[4] The Premier has reiterated in the Legislature how the Fair Hydro Plan has resulted in an average 25% cut to residential ratepayers' invoices.[5]

The Premier's tweet, which is reproduced below, is an unpaid communication regarding government policy. Twitter, like a news release, is a modern form of communicating government policy to the public.

[2] See Ontario, Ministry of Energy, "Ontario Cutting Electricity Bulls by 25 Per Cent" (May 11, 2017), online: https://news.ontario.ca/mei/en/2017/05/ontario-cutting-electricity-bills-by-25-per-cent.html.

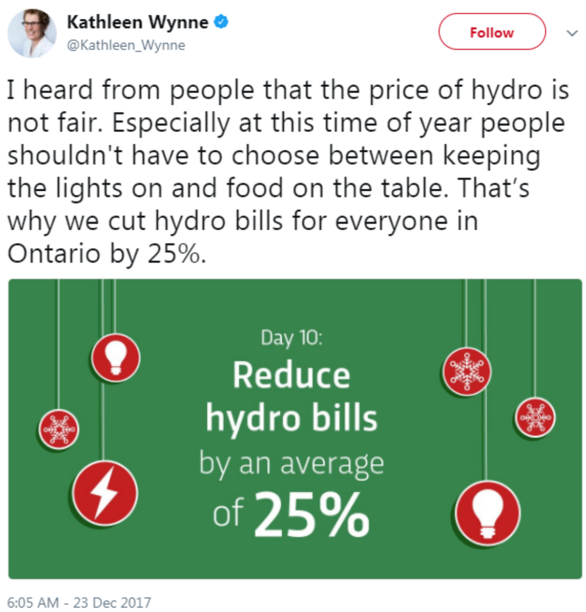
[3] See Ontario, Ministry of Energy, "Ontario Passes Legislation to Lower Electricity Bills by 25 Per Cent" (May 31, 2017), online: https://news.ontario.ca/mei/en/2017/05/ontario-passes-legislation-to-lower-electricity-bills-by-25-per-cent.html: "Ontario passed legislation today that will lower electricity bills by 25 per cent on average for all residential customers to provide significant rate relief and ensure greater fairness."

[4] See Ontario, Ontario Energy Board, "Electricity prices are dropping again on July 1" (June 22, 2017), online: https://www.oeb.ca/newsroom/2017/electricity-prices-are-dropping-again-july-1:

> For residential and small business customers that buy their electricity from their utility, the OEB has set new lower Regulated Price Plan (RPP) electricity prices that build on the reduction in RPP prices that came into effect on May 1. With the new RPP prices that will start to apply on July 1, the total bill for the proxy customer described under the Fair Hydro Act, 2017 will be about $121. That is about $41 or 25% lower than it would have been without the following mitigation.

[5] Ontario, Legislative Assembly, Official Report of Debates (Hansard), 41st Parl, 2nd Sess, No 106 (October 18, 2017) at 5709 (Hon. Kathleen O. Wynne).

**Figure { SEQ Figure * ARABIC } – Tweet of Premier Kathleen Wynne (December 23, 2017, 6:05 am)**




The policy being expressed in this communication is the reduction in electricity bills by 25%. This is a policy being promoted to the electorate by the Premier.

It would be inconsistent with the Code for Ad Standards or a Standards Council to treat communications from the Premier expressing a policy choice as reviewable. The Code includes an express exclusion for communications regarding government policy. It is not intended for a Standards Council to review communications between elected representatives and their constituents on matters of public policy, as is plain in the text of the Code.   ***The Ministry did not breach its commitment to Ad Standards***

The Ministry has not breached its commitment to Ad Standards. The advertising in question, namely the radio advertising referenced in the three complaints, was discontinued. The Premier's tweet was not part of the advertising campaign in issue. The complainant acknowledges this in its Complaint. It remains the case that the Ministry has not revived the same advertising campaign.

* * * * *

Yours very truly,

Joshua A. Krane

c. Maud Murray and Alena Thouin, *Legal Services Branch*

## Appendix "B" – How the Board Achieved a 25% Reduction

The Board implemented the following measures to reduce invoiced amounts to residential consumers by 25%:

- A portion of the fixed costs of running Ontario's power generation fleet and conservation programs were refinanced over a longer term. This accounted for a 15% reduction to the Electricity line on hydro bills. To achieve the reductions for consumers, the Board lowered the time-of-use prices per kilowatt hour (kWh) effective July 1, 2017.

- The Board shifted the costs associated with social support programs such as the Ontario Electricity Support Program and the Rural or Remote Protection Program from rate payers to the general revenue fund, resulting in a 2% reduction.

- The Government issued an 8% rebate for the provincial portion of the HST.

The Board determined that the rates effective July 1, 2017 under the Program resulted in a typical monthly bill of $121, which is 25% lower than the $162 bill the consumer would have received absent the Program.