



Low-Income Energy Network

July 25, 2016

Ontario Now Has Rules to Protect Energy Consumers from Predatory Sales Practices

In June 2015, the Ministry of Energy introduced Bill 112 - *Strengthening Consumer Protection and Electricity System Oversight Act, 2015* in an effort to enhance the Ontario Energy Board's (OEB) mandate and organization to ensure that it continues to effectively regulate and protect consumers. The OEB is an independent regulator responsible for setting for electricity and natural gas distributors, licensing market participants including electricity retailers and gas marketers, and protecting the interests of consumers.

Bill 112 also amends the *Energy Consumer Protection Act, 2010* (ECPA) by banning the door-to-door sale of retail energy contracts and requiring all contracts to be subject to a standardized verification process.

Changes to the Energy Consumer Protection Act, 2010

Prohibiting Selling or Offering to Sell at Consumer's Homes

Starting in January 2017, a supplier or a supplier's salesperson will be prohibited from selling or offering to sell electricity or gas to a consumer in person at their home. If a contract to sell electricity or gas is entered into, in person, at a consumer's home, it will not be legally enforceable. This prohibition does not, however, prevent a supplier or a supplier's salesperson from advertising or marketing to potential consumers at their home.

Restrictions on Advertising at Consumer's Homes

Commencing in January 2017, the advertising the sale of electricity or gas will be subject to regulation. The regulations can set out rules regarding the manner, time, and circumstances under which a supplier or salesperson may advertise to a consumer at their home. If a contract is entered into as a result of a violation of these rules, it will not be legally enforceable. Certain rules have been introduced to address advertising behaviour at consumer's homes; these can be found further below under the O. Reg. 389/10 sections.

In addition, a supplier must now also withhold wages from a salesperson that advertises, sells, or offers to sell electricity or gas to a consumer in a way that violates the rules in the regulations. This includes behaviour that constitutes "unfair practices". These can also be found further below under the O. Reg. 389/10 sections.

All Contracts Will Be Subject to Verification Requirements

As of January, 2017, all contracts will be subject to the verification requirements set out in the ECPA and General, O Reg 389/10. This means a person can verify a contract for electricity or gas

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- only with the account holder
 - only over the telephone or internet, and
 - only between the 10th and 45th day after a written copy of the contract is delivered to the account holder

In addition, as of January, 2017, contracts must only be verified over a telephone or the internet by an individual who

- is not employed by a party to the contract being verified
- is not compensated by the gas or electricity supplier or on the basis of the number of contracts verified, and
- is properly trained

Gas Marketer Pricing Requirements Now Mirror Those of Electricity Retailers

As of January 1, 2017, gas marketers will be subject to regulatory requirements when determining the price for gas. Previously, these requirements could only be set for electricity retailers. The OEB is also granted the power to determine how an electricity retailer or gas marketer determines the price set for electricity or gas. Gas marketers sell or offer to sell gas while electricity retailers sell or offer to sell electricity.

Changes to O. Reg. 389/10 (General) under the ECPA

Auto-renewal of Gas Contracts is Now Prohibited; Cancellation Fees Are Reduced or Removed

As of January 1, 2017, the auto-renewal of gas contracts will no longer be allowed, the amount that electricity retailers and gas marketers can charge consumers for the cancellation of a contract will be reduced to \$50, and consumers will be allowed to cancel an electricity contract without penalty up to 30 days after receiving their second bill.

Rules for Door-to-Door Advertising

Advertising should not be confused with the sale or the offer to sell gas or electricity. While the sale or offer to sell gas or electricity at a consumer's home is prohibited, the advertising of the sale of gas or electricity is not. Advertising is, however, subject to regulation.

As of January 1, 2017, a supplier or salesperson will no longer be allowed to

- provide consumers with a gift card or incentive for future redemption following entry into an energy contract
- leave a contract with a consumer at their door
- conduct unsolicited door-to-door advertising except during specified days and times
- conduct unsolicited door-to-door advertising if there is a posted sign prohibiting the activity
- make more than one unsolicited visit to a consumer's home in a 30-day period except for the purposes of contract verification

Repayment of a Gift Card is an Unfair Practice

A consumer may cancel a contract at any time if the supplier engages in what is called an unfair practice listed under the regulations. As of January 1, 2017, the requirement by a supplier for an energy consumer to return or repay a gift card at any time, including upon the cancellation of a contract by the consumer, will be included as an unfair practice.

Sales Commission No Longer Based on the Volume of Sales

As of January 1, 2017 all sales agents will be prohibited from earning a commission based on the volume of sales.

Changes to *Ontario Energy Board Act, 1998*

Increase in Maximum Administrative Penalty for Offences

The maximum penalty for contravening the *Ontario Energy Board Act* (OEBA) has been increased. While the penalty cannot exceed the amount a person would have to pay if it were an 'offence' under the OEBA, the OEB is able to increase an administrative penalty to equal the amount gained from the violation.

Education of Consumers is an OEBA Objective

The OEBA has a new objective - to promote the education of consumers. This means that while carrying out its responsibilities, the OEB must now be guided by the objective of promoting the education of consumers in addition to its current objective of protecting the interests of consumers with respect to prices and the adequacy, reliability, and quality of electricity services.

Consumer Representation at the OEB

The OEB must now establish processes by which the interests of consumers can be represented in proceedings before the OEB. The OEB is currently in the process of reviewing its intervenor participation process. These amendments would allow the OEB to implement any changes that arise from its review.