



**EB-2017-0284**

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*,  
S.O. 1998, c. 15, Schedule B;

**AND IN THE MATTER OF** an application by Kitchener Utilities  
for an exemption from sections 4.3.10 and 6.1.4 of the  
*Gas Distribution Access Rule*.

**By delegation, before:** Brian Hewson

**DECISION AND ORDER**  
**August 31, 2017**

On June 26, 2017, Kitchener Utilities (Kitchener) filed an application seeking a 1-year exemption from the following provisions of the Gas Distribution Access Rule (GDAR):

- section 4.3.10, which requires a gas distributor to provide written notice, in the form approved by the Ontario Energy Board (OEB), to a low volume consumer in respect of whom the gas distributor has processed a service transaction request for a change in supply to a gas vendor (i.e., a natural gas marketer); and
- section 6.1.4, which mandates the inclusion of certain information on bills issued to a low volume consumer that is served by a gas vendor.

These sections by their terms apply as of July 1, 2017, and were added to GDAR in the context of the OEB's consultation on new regulatory requirements to give effect to the OEB's June 1, 2015 report [\*Consumers Come First: A Report of the Ontario Energy Board on the Effectiveness of the Energy Consumer Protection Act, 2010\*](#) (EB-2015-0268) (ECPA Report Implementation Consultation).

Kitchener participated in the ECPA Report Implementation Consultation. In particular, Kitchener filed [written comments](#) on October 21, 2015 indicating that it was in the process of installing a new Customer Relations and Billing system and that, as a result, there was a blackout for changes to the new system. Kitchener indicated that it would therefore be unable to implement the GDAR changes “until the new system is stabilized”. In subsequent [written comments](#) filed on October 27, 2016, Kitchener noted that the corporate-wide blackout period for changes to its new system would extend to March 2017, at which time it would be in a position to engage its IT support group to review the GDAR requirements and provide an implementation timeline.

In its December 1, 2016 [Notice of Amendment to a Code and of Amendment to a Rule](#), the OEB noted comments made by Kitchener and a small number of other distributors regarding the OEB’s proposed July 1, 2017 implementation timeline. The OEB stated that it did not believe that a further delay in implementation was warranted, and indicated that any distributor that could not meet the July 1, 2017 timeline would need to seek an exemption from the OEB.

In its application for exemption, Kitchener highlighted the comments that it had made in the ECPA Report Implementation Consultation and indicated that, after an assessment by their IT department, it was able to comply with certain of the OEB’s new requirements but not those set out in sections 4.3.10 (notice of switch) and 6.1.4 (on-bill requirements) of GDAR. Kitchener also made the following points:

- Kitchener currently provides a notice of switch to customers within 5 business days, using language that is similar to the language prescribed in the OEB-approved form of notice;
- bills issued by Kitchener to low volume consumers that have a contract with a gas vendor have the word “SUPPLIER” before the name of the gas vendor;
- Kitchener’s request for an exemption to July 1, 2018 is in line with the OEB’s determination of a 6-12 month implementation timeline for the new regulatory requirements in question; and
- Kitchener endorses and will abide by the principles and intent of the new GDAR requirements on or before July 1, 2018.

## Findings

This Decision and Order is being issued by Delegated Authority without a hearing under section 6 of the *Ontario Energy Board Act, 1998*, and under section 44(5) of that *Act*

and section 1.5.1 of GDAR, both of which make provision for the granting of exemptions from GDAR.

Sections 4.3.10 and 6.1.4 of GDAR are important consumer protection requirements, and were implemented further to findings and recommendations contained in the OEB's *Consumers Come First* report. Although different from the GDAR requirements, Kitchener's existing practices regarding the provision of a notice of switch and the on-bill identification of a customer's gas vendor do provide consumers with some measure of consumer protection and are directionally at least in line with the spirit and intention of the GDAR requirements at issue.

While Kitchener's application was filed only days before the new GDAR requirements at issue became effective, Kitchener did take steps during the ECPA Report Implementation Consultation to make the OEB aware of the constraints imposed by the change in its systems.

It is in the public interest, having regard to the OEB's statutory objectives in relation to the gas sector, to grant Kitchener's application for exemption from sections 4.3.10 and 6.1.4 of GDAR, to July 1, 2018. Kitchener is encouraged to make reasonable efforts to become fully compliant with those sections earlier if possible. In the interim, Kitchener is expected to maintain those of its existing practices that seek to fulfil the same consumer protection objectives as are served by those sections.

**IT IS THEREFORE ORDERED THAT:**

1. Kitchener Utilities is exempt from sections 4.3.10 and 6.1.4 of the Gas Distribution Access Code until July 1, 2018.

**DATED** at Toronto, August 31, 2017

**ONTARIO ENERGY BOARD**

*Original Signed By*

Brian Hewson  
Vice President, Consumer Protection & Industry Performance