



EB-2011-0317

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

AND IN THE MATTER OF a Notice of Intention to Make an
Order for Compliance and an Administrative Penalty against
Superior Energy Management Electricity LP, Licence Number
ER-2007-0008 and Superior Energy Management Gas LP,
Licence Number GM-2007-0084, (together, "Superior"),

**Assurance of Voluntary Compliance
Pursuant to s. 112.7 of the
*Ontario Energy Board Act, 1998***

I. INTRODUCTION

By Notice of Intention to Make an Order (the "Notice") under section 112.3 and 112.5 of the *Ontario Energy Board Act, 1998*, (the "Act") for compliance and an administrative penalty issued August 25, 2011 the Board announced that it intended to make an order against Superior to pay an administrative penalty in the amount of \$30,000. Pursuant to s. 112.2(4) Superior was advised that it may, within 15 days after receiving the notice, give notice to the Board requiring the Board to hold a hearing. Superior has elected not to request a hearing and in order to fully and finally resolve this matter Superior is prepared to admit to the deficiencies set out in the Notice and enter into this Assurance of Voluntary Compliance.

II. COMPLIANCE INSPECTION

Following the enactment of the *Energy Consumer Protection Act, 2010* (the “ECPA”) and supporting regulatory instruments on January 1, 2011, the Board initiated a series of compliance inspections of electricity retailers and gas marketers operating in the Ontario market.

The purpose of the inspections was to confirm the statements made in the Certificate of Compliance filed by the supplier and to assess the extent to which electricity retailers’ and gas marketers’ practices and processes are in compliance with all applicable legal and regulatory requirements including the ECPA, Ontario Regulation 389/10, Ontario Regulation 90/99, the Code of Conduct for Gas Marketers (“Marketers Code”) and the Electricity retailer Code of Conduct (“Retailer Code”) (collectively referred to as the “Codes”). In addition, the extent to which supplier systems, processes and business practices are appropriate in terms of facilitating and achieving compliance and identifying the need for remedial action was assessed. The inspection was limited to the activities of suppliers related to the retailing of electricity or the marketing of gas to low-volume consumers as defined in the Act.

III. Assurance of Voluntary Compliance

Contract content requirements for renewal contracts

Superior admits to the following deficiencies set out in the Notice with respect to two gas_renewal contracts (Contract numbers 5542698 & 5573211):

1. The contract fails to contain a statement that “nothing in the contract negates or varies the consumer’s rights to cancel the contract under and in accordance with the Act and this Part”; contrary to section 12 of the ECPA and section 7(1)(11) of Ontario Regulation 389/10.
2. The contract fails to state that if the consumer permanently moves out of the premises to which the electricity/gas is provided under the contract, the consumer may, without cost or penalty, cancel the contract; contrary to section 12 of the ECPA and section 7(1)(12) of Ontario Regulation 389/10.

3. Contrary to section 12 of the ECPA and sections 16(1)(a), (b) and (c) of Ontario Regulation 389/10, the contract has not been amended to give the consumer the right to cancel the contract at any time during the renewed or extended term of the contract:
 - a. Without cost or penalty, if the supplier engages in an unfair practice with respect to the consumer;
 - b. Without cost or penalty if the supplier does something described in clause 21(a) of Ontario Regulation 389/10; and
 - c. Without cost or penalty if the consumer does something described in clause 21(c) of Ontario Regulation 389/10.

4. The contract does not include a description of the circumstances prescribed in section 21(b) and (e) of Ontario Regulation 389/10 where the consumer can cancel the contract without cost or penalty; contrary to section 12 of the ECPA and section 7(1)(13) of Ontario Regulation 389/10.

Staff has noted that particular 3.c. of the Notice cites the same substantive requirement as particular 2 of the Notice, although notes that there are different sections of the ECPA and Ontario Regulation 389/10 cited.

Superior commits to ensuring that, effective as of the date of this Assurance, the form and content of a renewal contract entered into with a low volume consumer meets the requirements set out in section 7 (1)(11), (12) and (13) and section 16 (1)(a), (b) and (c) and section 21(b) and (e) of Ontario Regulation 389/10.

Renewal package contents

Superior admits the following deficiency set out in the Notice:

5. During the inspection, a renewal package was reviewed (Contract Number 5542698) and it was noted that it did not contain a text-based copy of the renewal form and contains only one copy of the disclosure statement and price

comparison contrary to section 18 of the ECPA and section 15(1)(b)(ii) and 15(1)(b)(iii) of Ontario Regulation 389/10.

Superior commits to ensuring that, effective as of the date of this Assurance, the form and content of a renewal package provided to a low volume consumer meets the requirements set out in section 15(1)(b) (ii) and (iii) of Ontario Regulation 389/10.

IV. Administrative Monetary Penalty

Superior agrees to pay an administrative monetary penalty in the amount of \$25,000 to the Board by way of certified cheque on or before September 30, 2011.


V. Consumer Rights

Nothing in this Assurance affects any rights a consumer may have under his or her contract, the ECPA or any other law.

VII. Failure to Comply

This Assurance has the same force and effect as an order of the Board pursuant to section 112.7(2) of the Act and any failure to comply with its terms shall be deemed to be a breach of an order of the Board.

I have authority to bind Superior Energy Management Electricity LP and Superior Energy Management Gas LP to the terms set out in this Assurance of Voluntary Compliance:



Name: Susannah Robinson
Title: Vice-President, Sales & Operations
Dated: September 12, 2011