



EB-2010-0407

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

AND IN THE MATTER OF an application for
exemptions from the Code of Conduct for Gas
Marketers by The Corporation of the City of Kitchener
for its current Gas Marketer Licence.

By delegation, before: Jennifer Lea

DECISION AND ORDER

The Corporation of the City of Kitchener filed an application on December 30, 2010 with the Ontario Energy Board (the “Board”) for an amendment to its gas marketer licence GM-2009-0048. The applicant is applying for exemptions from Part B - Sections 1.1(a),(b) and (c); 2; 3; 4; 5; 6; 7.1; 7.2; 7.4 to 7.6; 10 and Part C of the Code of Conduct for Gas Marketers (the “Code”) (as restated on November 17, 2010).

The Corporation of the City of Kitchener (“the Corporation”) is a municipally owned gas distributor that provides a default (non-contract) supply service at cost to customers within its franchise area. The Corporation owns and operates a natural gas distribution system for which the rates are fixed by the City of Kitchener under the *Public Utilities Act*. The natural gas commodity pricing is unbundled and adjusted quarterly to reflect the costs of providing system gas.

In 1999, the Board granted the applicant exemptions from certain sections of the Code as it then was. The exemptions were considered appropriate based on the applicant’s obligations as a system gas distributor and the fact that it did not market to or enter into contracts with its customers. In December 2004, the Code was amended by the Board and the Corporation’s licence was subsequently amended in 2006 to reflect exemptions from the new Code.

On November 17, 2010 the Code of Conduct for Gas Marketers was restated to implement the provisions of the *Energy Consumer Protection Act, 2010* in relation to the activities of licensed gas marketers. In keeping with its past practices, the Corporation is seeking exemption from the relevant sections of the Code that are parallel to the exemptions granted by the Board in 2006 and from new sections of the Code that would otherwise conflict with the Corporation's role as a municipally owned distributor providing default natural gas supply.

I have proceeded without a hearing since no other parties are adversely affected in a material way by the outcome of the proceeding and the applicant has requested that the matter be disposed of without a hearing.

I find that it is in the public interest to continue to exempt the applicant from compliance with certain sections of the Code. The applicant is a gas distributor that supplies gas to its customers in accordance with conditions of service approved by the City of Kitchener. The Corporation does not enter into gas supply contracts with its customers, nor does it employ salespersons who are marketing natural gas on its behalf. The Corporation is appropriately exempt from sections of the Code that impose requirements related to activities that the Corporation does not undertake.

IT IS THEREFORE ORDERED THAT:

1. The Corporation of the City of Kitchener is exempt from Part B - Sections 1.1(a),(b) and (c); 2; 3; 4; 5; 6; 7.1; 7.2; 7.4 to 7.6; 10 and Part C of the Code of Conduct for Gas Marketers;
2. The exemptions are identified on Schedule 2 of the gas marketer licence GM-2009-0051 which is attached to this Decision and Order.

DATED at Toronto, March 14, 2011

ONTARIO ENERGY BOARD

Original signed by

Jennifer Lea
Counsel, Special Projects