

Planet Energy (Ontario) Corp.'s Comments on OEB's Proposed Revised Supplier Codes of Conduct (including new Disclosure Statements, and Verification Scripts) (the "Proposed Documents")

In general, these comments have been made on the electricity Proposed Documents. Unless the gas Proposed Documents are specifically addressed herein, all of the comments on the electricity Proposed Documents apply to the gas Proposed Documents wherever applicable.

Planet Energy (Ontario) Corp. ("Planet") is a privately held, 100% Canadian owned licensed retailer of electricity and marketer of natural gas in Ontario. Pursuant to its licenses, Planet offers electricity and natural gas products to both large volume and low volume consumers.

With respect to Planet's marketing to low-volume consumers, Planet ceased its door-to-door marketing program in the spring of 2010 in favour of internet based sign ups as Planet has found this to be a viable marketing channel that creates a higher level of customer satisfaction. Planet generates customer interest through relationship and affinity based customer programs. Through these programs, representatives introduce potential customers to Planet's product offering and directs such potential customers to Planet's internet portal for further information and, if the customer chooses, to enter into contracts. In respect of affinity based programs potential customers have a commercial or association based relationship (e.g. customers of a retail outlet or residents of a building). In respect of relationship based marketing potential customers are the friends, family and acquaintances of the Planet representative. It is from this perspective that Planet makes the following comments on the Proposed Documents.

Sec 2.3. Identification Badges

Section 2.3 requires that a salesperson acting on behalf of a retailer to a low volume consumer in person, at a place other than the retailer's place of business, must, at all times wear, on the front of the salesperson's outer clothing, an identification badge.

Planet understands that regulation 5(6)(i) requires that a badge be "prominently displayed" in these situations. Planet's concern is specifically related to the provision in section 2.3 that the badge be worn on the outer clothing at all times. Although this may be quite appropriate for certain marketing avenues (such as door to door), it is not appropriate for others. Planet salespersons sell primarily to their immediate family and close friends. In these specific instances Planet suggests that it is more appropriate for the code to use the words of regulation 5(6)(1), "prominently displayed", to allow the salesperson some flexibility in how this achieved when dealing with family and close friends.

Sec 5. Training

Method of Training and Testing

In Planet's previous comments on the draft codes released by the Board on Oct 12, 2010, concerns were raised with the codes' training provisions. Of particular concern is that the training provisions appear to

be written from the perspective of a specific method of training delivery, specifically a class room based approach. Although not prohibiting other training methods, the provisions as written are in some instances less than clear and in others unduly onerous with respect to other widely used and accepted training methods. Of particular interest to Planet is an Internet based training method.

Through Planet's network based marketing model, sales representatives currently undertake internet based training. These sales representatives conduct sales activity to a 'warm' network of friends, family and acquaintances. They do not conduct door-to-door or other cold calling methods. As a result, these individual sales representatives have limited interaction with head office staff of their sales agency and would not typically attend in person at the offices of such sales agency or Planet. The Code amendments do not seem to reflect this type of marketing methodology which relies on both internet based sign ups by customers as well as internet based training and testing of sales representatives.

Internet based training, study and testing is widely used. Universities allow courses and even full degrees to be completed through online study. Professional associations such as the Institute of Chartered Accountants of Ontario allow and encourage internet based continuing professional development training. Ontario's teachers can study and complete specialist training courses on-line. These are just a few example of where internet based training is prevalent.

Proposed code amendments

Planet submits that Sec 5.5 be amended to specifically allow internet based training and that such training could be either hosted on the servers of Planet, a third party or an organization also engaged to perform retailing activities. The retailer's obligation should be for the adherence of the training and its presentation to the student to the standards set out in the codes. Planet asserts that this will allow greater flexibility and the use of existing web based training tools without any degradation to consumer protection.

Planet submits that Sec 5.5 be amended to specifically acknowledge and sanction the use of internet based training. The current proposed language in section 5.5 contemplates that training is 'conducted by a person'. Although Planet believes this does not on its surface exclude internet based training as a person would have to prepare the materials and cause those materials to be presented in a certain way on the internet, it is possible that other parties may take a more literal interpretation of this provision. To avoid what Planet believes is an unintended prejudicial effect on internet based training and more specifically, the network based marketing model, it is requested that this section be modified to make explicit the use of internet based training. In the alternative, Planet submits that internet based training be permitted for sales representatives that do not conduct door-to-door or other cold calling methods.

Planet submits that internet based training and testing can be designed to be compliant with the provisions of Sec. 5, including paragraph 5.5(e). Such testing safeguards could include random testing questions, time limited tests, requirements to complete questions in a specific order without returning to previous questions and other procedures.

Clarification requested

Sec 5.6(d) provides that a sales candidate be allowed to retake a training test only once. Planet asks that the Board clarify its intent with respect to its position. Is it the Board's intent that:

1. A sales candidate that fails to successfully complete a retailer's training test after 2 attempts must complete a revised or different training test on a subsequent attempt?
2. A sales candidate that fails to successfully complete a retailer's a training test after 2 attempts no longer be eligible to work in the role of a sales person for that retailer for some period of time? Would it be acceptable for the candidate to reapply for the position of salesperson at another date and retake the training and be tested at that time?
3. A sales candidate that fails to successfully complete a retailer's training test after 2 attempts no longer be eligible to work in the role of sales person for that retailer for the rest of the candidate's life?
4. A sales candidate that fails to successfully complete a retailer's training test after 2 attempts no longer be eligible to work in the role of sales person for any retailer for the rest of that candidate's life?