



PUBLIC INTEREST ADVOCACY CENTRE

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VIA MAIL and E-MAIL

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge St.
Toronto, ON
M4P 1E4

Dear Ms. Walli:

**Re: Vulnerable Energy Consumers Coalition (VECC)
EB-2010-0280
PROPOSED CUSTOMER SERVICE AMENDMENTS TO THE
GAS DISTRIBUTION ACCESS RULE**

We have reviewed the proposed amendments to the GDAR in the Board's Notice dated June 29, 2011 and have comments only with respect to the ability of gas distributors to waive enforcement of their customer service policies in favour of their customers pursuant to proposed section 8.3.1.

VECC supports allowing gas distributors the discretion to waive enforcement of their customer service policies in favour of their customers, but is concerned that absent some framework for the exercise of that discretion it may not be exercised consistently. More specifically, VECC is concerned that the availability of a waiver should not turn on happenstance, i.e. which of a distributor's customer service representatives happens to make contact with the customer, but rather should be made available to all of a distributor's customers based on either a set of principles for the granting of waivers or in accordance with precedential examples of similar fact scenarios where waivers will be offered.

Without either a set of principles or a consistent series of appropriate scenarios to guide the granting of waivers, VECC is concerned that some customers may be denied a waiver in their favour even though other customers in materially

similar circumstances may (appropriately) benefit from a waiver from the distributor.

Additionally, VECC submits, guidance with respect to the granting of waivers under section 8.3.1 should help minimize disputes under section 8.4, to the extent that such guidance will help avoid inconsistency in the granting of waivers by ensuring that all customers in similar circumstances will benefit from the exercise of a distributor's discretion to waive its customer service policies in the customer's favour.

Accordingly VECC submits that distributors should be required to develop a guide for the exercise of the discretion to waive their respective customer policies to ensure that all of their customers will have equitable access to such waivers. VECC submits that such a requirement should not be interpreted as intending to restrict the exercise of a distributor's discretion. Rather, it should be interpreted as intending to ensure that as a distributor encounters examples of circumstances where a waiver is warranted, future similar scenarios will benefit from similar treatment. To that end VECC would submit that such a guide may be more of a "living" document than the actual customer service policy, as it adapts to include new examples where a distributor determines a waiver may be appropriate.

Yours truly,

Michael Buonaguro
Counsel for VECC