



**EB-2012-0278**

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

**AND IN THE MATTER OF** a Notice of Intention to Make an Order for Compliance and an Administrative Penalty against Access Gas Services (Ontario) Inc., Licence Number GM-2008-0415.

## **ORDER**

**WHEREAS**, pursuant to sections 112.2, 112.3 and 112.5 of the Act, the Board issued a Notice of Intention to Make an Order for Compliance and the payment of an Administrative Penalty (the “Notice”) against Access Gas Services (Ontario) Inc. (“Access Gas”) on July 10, 2012;

**AND WHEREAS**, Access Gas was informed that it had fifteen days after receiving the Notice to give notice to the Board requiring the Board to hold a hearing and Access did not request a hearing;

**AND WHEREAS**, the Notice provided that the Board intends to make an Order under sections 112.3 and 112.5 of the Act requiring Access Gas to comply with a number of enforceable provisions as defined in section 3 of the Act and to pay an administrative penalty in the amount of \$10,000 for breaches of enforceable provisions.

**THE BOARD HEREBY FINDS** that Access has contravened:

1. Section 18 of the *Energy Consumer Protection Act, 2010* (the “ECPA”);
2. Sections 8(3)(a), 8(3)(c), 15(1)(b)(ii), 16(1)(a), 16(1)(b), 16(1)(c) and 16(1)(e) of Ontario Regulation 389/10;
3. Section 88.10(1) of the Act and section 7(1)(3) of Ontario Regulation 200/02 as these sections read on December 31, 2010 and which sections continue to apply to contracts entered into before January 1, 2011 in accordance with section 31 of Ontario Regulation 389/10; and

4. Section 4.6(b) of the Code of Conduct for Gas Marketers.

**NOW THEREFORE THE BOARD ORDERS THAT:**

1. Pursuant to section 112.3 of the Act and being satisfied that Access Gas has contravened a number of enforceable provisions as defined in section 3 of the Act, Access Gas shall:
  - a. In respect of the contraventions listed as numbers 1 through 5 in the Notice, immediately amend its gas contracts:
    - i. to state that the consumer has the right to cancel without cost or penalty if the supplier engages in an unfair practice; in accordance with section 18 of the ECPA and section 16(1)(a) of Ontario Regulation 389/10.
    - ii. to state that the consumer has the right to cancel without cost or penalty if the supplier does something described in section 21(a) of Ontario Regulation 389/10; in accordance with section 18 of the ECPA and section 16(1)(b) of Ontario Regulation 389/10.
    - iii. to state that the consumer has the right to cancel without cost or penalty if the consumer does something described in section 21(c) of Ontario Regulation 389/10; in accordance with section 18 of the ECPA and section 16(1)(c) of Ontario Regulation 389/10.
    - iv. to state that the consumer has the right to cancel without any reason if the consumer gives the supplier 10 days notice; in accordance with section 18 of the ECPA and section 16(1)(e) of Ontario Regulation 389/10.
    - v. to state the licence number of Access Gas; in accordance with the requirements of sections 88.10(1) of the Act and section 7(1)(3) of Ontario Regulation 200/02 as these sections read on December 31, 2010 and which sections continue to apply to contracts entered into before January 1, 2011 in accordance with section 31 of Ontario Regulation 389/10.
  - b. In respect of the contravention listed as number 6 in the Notice ensure that the price comparison template is completed in accordance with the Board's instructions and in particular, ensure that the marketer's offer in Part B of the price comparison template indicates whether the charge for transportation is the marketer's price or the utility price in accordance with instruction number 1 of the Board's price comparison template; in accordance with section 18 of the ECPA, sections 8(3)(a), 8(3)(c) and

15(1)(b)(ii) of Ontario Regulation 389/10 and section 4.6(b) of the Code of Conduct for Gas Marketers.

2. Pursuant to section 112.5 of the Act and being satisfied that Access Gas has contravened enforceable provisions of the Act, Access Gas shall forthwith pay an administrative penalty in the amount of \$10,000 by certified cheque payable to the Ontario Energy Board.

**ISSUED** at Toronto, July 31, 2012

**ONTARIO ENERGY BOARD**

*Original signed by*

Rosemarie T. Leclair  
Chair and CEO