

January 15, 2016

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27th Floor  
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Amendments to the OEB Regulatory Instruments (RRRs, Codes and Rules) and Specifying a Mandatory Record Retention Period for Regulated Entities**  
**Board File No.: EB-2015-0247**

Just Energy Ontario L.P. (“Just Energy”) appreciates the opportunity to provide comments to the Board’s Notice of Proposal to amend the Ontario Energy Board’s (“OEB”) Regulatory Instruments specifying a mandatory record retention period for regulated entities, letter dated December 10, 2015 and amended December 15, 2015.

Just Energy is of the opinion that the existing record retention practices are sufficient and that a change to these practices is neither warranted, necessary, nor prudent. Just Energy submits that the proposed increase of the record retention period to 10 years is excessive and will place an unnecessary burden on the impacted entities. The existing requirements have proven to be effective. By way of comparison, the *Income Tax Act* and the Ontario *Business Corporations Act* require that accounting records be retained for a period of six years, and the Ontario *Employment Standards Act* requires employee records be retained for three years post termination. These more reasonable time periods have proven effective in these other arenas. We are supportive of regulatory changes that solve an existing problem but this increase in the record retention period does not appear to be addressing any existing issue. Rather, it will likely have a negative impact upon consumers. Such an unnecessary increase will introduce additional costs for record storage, costs that will impact upon the ability of these businesses to compete in the industry and ultimately impact the price that the ultimate consumer pays for service. This is in direct conflict with the efforts that the OEB makes to enhance consumer protection and its desire to reduce costs to ratepayers.

The Board's proposal will also create unnecessary additional risk for entities in civil proceedings.

Just Energy's comments below pertain to the specific areas identified by the Board in its Notice of Proposal with a view to identifying best practices.

- ***The format of records that must be retained, i.e. electronic v. paper formats***

Just Energy submits that documents or records to be retained should not be restricted to a single format. Just Energy's existing records are retained in multiple formats including paper, digital and voice recordings and all of these formats are likely to be utilized in the future. The format of the records should not concern the Board; rather, the focus should be on the ability to produce the records in their original condition if and when required. Requiring companies to convert existing documents into a standard format would be costly and could result in loss of documents or errors. Therefore, no restrictions should be placed on the format of record retention.

- **The types of records to which the record retention requirements are applicable, i.e. records required to be retained for regulatory purposes vs. corporate/business/operational records that are not required to be retained for regulatory purposes;**

Just Energy is of the view that the retention policy should only apply to documents or records required to be retained in accordance with the Act and the *Energy Consumer Protection Act* ("ECPA"). Requiring retailers/marketers to retain documents or records that are not within the scope of the Act or the ECPA would be outside of the OEB's jurisdiction.

- **The types of records to be retained to demonstrate compliance with Regulatory Instruments, i.e. provisions in regulatory instruments that do not contain specific retention requirements;**

Just Energy is of the opinion that the retention policy should only apply to documents or records required to be retained in accordance with the Act, the Code of Conduct and the *Energy Consumer Protection Act*. If there are other items not specified in any of these documents than they would not be subject to the retention policy.

- **The temporal application of the Mandatory Record Retention Period, i.e. whether it should be applied only prospectively or retrospectively in some cases as well;**

Just Energy strongly submits that any change to the record retention period must be applied on a prospective basis only beginning on the date determined for implementation.

- ***The exceptions to the record retention requirements, for example other statutory requirements that may mandate a shorter record retention period;***

Just Energy is strongly of the view that the existing record retention practices are sufficient, reasonable, effective and consistent with the Statue of Limitations in Ontario, and as such should not be changed.

- **Implementation (in force) date for the Mandatory Record Retention Period and the duration of the transition period, i.e. the date that amendments are in force and the recommended transition period.**

As system changes are complex and require a considerable amount of lead time to ensure accuracy, Just Energy requests that the OEB provide substantial and sufficient lead time and notice regarding any amended provisions to come into effect.

Should you require further information, please do not hesitate to contact me at 403.462.4299 or [nruzycki@justenergy.com](mailto:nruzycki@justenergy.com).

Regards,



Nola Ruzycki  
Vice President, Regulatory Affairs