



October 5, 2016

Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, Suite 2700
Toronto, Ontario M4P 1E4

SENT VIA MAIL & EMAIL – boardsec@ontarioenergyboard.ca

Re: Comments of Planet Energy on the OEB’s Notice of Revised Proposal to Amend a Code and to Amend a Rule (EB-2015-0268)

Planet Energy appreciates the opportunity to comment on the Notice of Revised Proposal to Amend a Code and to Amend a Rule issued by the Ontario Energy Board on September 8, 2016. In particular, Planet Energy wishes to comment on the OEB’s proposal to postpone the implementation of internet verification.

Introduction and Summary

Planet Energy has been strongly supportive of the ban on door-to-door selling - the key component of the new consumer protection regime set out in *Strengthening Consumer Protection and Electricity System Oversight Act, 2015* (Bill 112). Planet Energy does not conduct and has not conducted “door-to-door” sales. Instead, all of Planet Energy’s sales are made through the internet. This online sales and enrolment process allows Planet Energy to employ a consistent and transparent process that is fully compliant with and, indeed, exceeds applicable OEB requirements and regulations. It is clear that our business processes have not contributed to the problems that the government sought to address in Bill 112.

The ban on door-to-door sales, together with the implementation of internet verification, presents a real opportunity for the OEB and the government to update the Ontario retail energy market and ensure that the new processes and procedures reflect the preferences and expectations of consumers. Internet verification is a key component of this modernization process. The recent amendments to Regulation 389/10, made pursuant to Bill 112, explicitly provide for the implementation of internet verification by the OEB. Planet Energy’s understanding has always been that government intended for internet verification to be implemented by the OEB as of the date on which the amendments to Regulation 398/10 are scheduled to come into to force – namely January 1, 2017.

Accordingly, Planet Energy’s view is that internet verification should be implemented in conjunction with the other code and rule amendments scheduled for January 1, 2017 and, for the reasons explained below, it would be a mistake to defer that implementation.

Planet Energy submits the implementation of internet verification as of January 1, 2017 would: a) be in the best interests of consumers, and b) avoid the unnecessary transition and system costs that suppliers would otherwise incur as a consequence of any delay in implementation beyond that date.

Planet Energy is confident that appropriate rules and processes for internet verification can be put in place over the next three months if the necessary work begins now and without delay. The Notice of Revised Proposal invites energy suppliers to submit proposals for internet verification and, accordingly, Planet Energy has included with these submissions, as Appendix A, the outline of a proposed process for consideration by the OEB and others. In designing that process, Planet Energy has endeavoured to ensure that the process incorporates all the consumer protection elements of the proposed telephonic verification process.

Planet Energy would be pleased to work with the OEB, other retailers and consumer groups to ensure that those rules and processes can be developed for a January 1, 2017 implementation date.

Planet Energy also suggests that if the OEB wishes to pursue a phased-in approach for internet verification, it could implement such verification for internet sales (and other sales with respect to which there has been no in-person contact) as of January 1, 2017, and defer the implementation of internet verification for sales in respect of which there has been in-person sales or marketing activity to a later date.

Planet Energy has a number of comments regarding other features of the Notice of Revised Proposal. Those additional comments are set out in Appendix B.

Implementation of Internet Verification on January 1, 2017 is in the Best Interests of Consumers

Planet Energy submits that the implementation of internet verification would allow consumers the opportunity to verify their enrollment in a manner and at a time that is convenient for them and that reflects their preferences and expectations. This is particularly true of consumers, such as Planet Energy's customers, who choose to enrol over the internet. Indeed, Planet Energy submits that any delay in the implementation of internet verification would actually have an adverse impact on consumers. In particular, a requirement that all contracts, regardless of the method of sale, be verified by telephone, pending the implementation of internet verification at some unspecified future date, would result in a substantial increase in the number of telephone calls made to consumers, even to those consumers who have chosen to enrol over the Internet rather than through an in-person process.

For example, Planet Energy processed approximately 31,700 new electricity and natural gas customers over the internet between October 2014 and September 2016. If telephonic verification had been required at that time, there would have been at least an additional 31,700 phone calls made by Planet Energy to consumers. This number would be considerably higher if we accounted for all the contract renewals that were undertaken over the same time period.

A requirement for telephonic verification, pending the implementation of internet verification at some future date, is anachronistic in an age in which increasing numbers of consumers are choosing to purchase goods and services online and are registering themselves on the "do not call" list established by the federal telecommunications regulator. Over 1 million telephones in the 416 area code are registered on that "do not call" list, indicating the strong public aversion to sales and marketing calls.

The implementation of internet verification as of January 1, 2017 would better reflect modern technology and modern consumer preferences. Consumers should have the option to verify their retail energy contracts over the internet much the way they currently do with online banking and other transactions. This sentiment reflects the acknowledgement by the previous Minister of Energy during the debate on Bill

112 that our regulatory processes need to keep abreast of advances in technology and social media. Speaking in the Legislature on September 24, 2015, the Minister cited the “age of social media and technological change” in support of the changes to the mechanisms for consumer representation at the OEB that are also proposed in Bill 112. Planet Energy suggests that the very trends identified by the Minister also warrant the modernization of the ways in which retail energy contracts can be verified.

Internet verification not only offers consumers greater convenience; it also provides the OEB with certainty that consumers are required to confirm their understanding of the contract and their intention to proceed with the transaction. No agent or representative of the supplier would be physically present at the time of verification. Internet verification would proceed in accordance with a standard script and would be recorded and retained, just as telephone verification calls currently are.

We have included with this submission the outline of a proposed internet verification process that we believe is workable and that incorporates all the consumer protection elements found in the current and proposed telephonic verification process. Planet Energy is confident that such a process could be implemented for January 1, 2017.

Implementation of Internet Verification on January 1, 2017 Would Avoid Unnecessary Transition Costs and Discrimination

Planet Energy accepts that Bill 112 and the pending revisions to the OEB codes and rules will require the verification of all sales, including sales over the internet, as of January 1, 2017. However, the proposed postponement of the implementation of internet verification will be particularly burdensome for retailers, such as Planet Energy, who have not engaged in door-to-door selling. That postponement will require Planet Energy: a) to implement telephonic verification while awaiting the future implementation of internet verification, and then b) proceed with a further system change once the OEB implements internet verification. Imposing these interim processes and costs on Planet Energy and the other suppliers who have refrained from door-to-door selling and have not contributed to the problems that the government sought to address in Bill 112 would seem particularly discriminatory and unfair.

The OEB has not provided any compelling reason for postponing the implementation of internet verification. The Notice of Revised Proposal correctly notes that the rules of the British Columbia Utilities Commission permit internet verification and also suggests that few if any retailers in that province are using internet verification. However, it should be emphasized that the BCUC does not require any verification in respect of contracts made over the internet. Indeed, Planet Energy is not aware of any jurisdiction that requires verification of transactions completed over the internet. Accordingly, Planet Energy submits that the experience in British Columbia is not instructive regarding the efficacy and appropriateness of internet verification in Ontario. Those suppliers who have traditionally relied on in-person sales may well continue to prefer telephonic verification; but those suppliers such as Planet Energy who sell over the internet, would undoubtedly prefer internet verification – precisely because it is a verification process that is initiated by customers at their convenience, that is consistent with the reasonable expectations and preferences of modern consumers, and that can incorporate all the consumer protection elements found in telephonic verification.

Conclusion

In conclusion, Planet Energy submits that the OEB should proceed with the implementation of internet verification for January 1, 2017. The implementation of internet verification as of January 1, 2017 would:

- Reduce the number of telephone calls that would otherwise be made to consumers
- Reflect consumer preferences and expectations by allowing them to verify contracts at a time convenient for them
- Be more consistent with the technological change noted by the previous Minister of Energy
- Reduce the transition costs that would otherwise be borne by energy suppliers, particularly those such as Planet Energy who have not engaged to door-to-door selling and who have not been subject to any verification requirement prior to Bill 112
- Address the unfairness of requiring suppliers who sell via the internet rather at the door, to wait indefinitely for the implementation of a verification method more appropriate and consistent with their sales channel.

Planet Energy is confident that any OEB rules that may be required for internet verification can be put in place in advance of January 1, 2017. In that regard, we have included with these submissions the outline of a proposed process for consideration by the OEB and others. That process incorporates all the consumer protection elements of the proposed telephonic verification process.

In the event that the OEB still wishes to pursue a phased-in approach for internet verification, the OEB could implement such verification for internet sales (and other sales with respect to which there has been no in-person contact) as of January 1, 2017 and defer the implementation of internet verification for sales in respect of which there has been in-person sales or marketing activity to a later date.

We would be pleased to work with the OEB, the government and others stakeholders to make internet verification available for January 1, 2017.

Sincerely,



Nino Silvestri
Co-CEO
Planet Energy (Ontario) Corp.

Cc: The Hon. Glenn Thibeault, Minister of Energy

Attachments:

Appendix A – Proposed Online Process Flow Template for Internet Verification
Appendix B – Comments on Additional Features of Revised Notice of Proposal

Appendix A

<<Display Retailer Name/Logo>>
<<Display Verification Company Name>>
 <<Description of Services from Verification Company>>

<<Link to Contract>>
<<Link to Disclosure Statement>>
<<Link to Price Comparison Forms>>

<<Current Date>>

<<Brief Introductory Statement and Welcome>>

Checkbox #1 (all checkboxes required to be selected or submission not processed)

You confirm that you entered into the electricity and/or natural gas agreement via the internet.

Checkbox #2

You confirm that the service address is <<service address>>

Checkbox #3

You confirm that your name is <<customer name>>

Checkbox #4

You confirm that you are the account holder and/or authorized representative acting on behalf of the account holder

Checkbox #5

You confirm that you wish to proceed with the contract with <<Provider Name>>

<<Statement to be included that there is no requirement to proceed, and if they do not, there will not be a fee and services will remain the same>>

Checkbox #6

You confirm and understand that you will be purchasing electricity and/or natural gas services from <<Provider Name>>

Checkbox #7

You confirm that no representative was present from <<Provider Name>> at the time you completed the online agreement.

Checkbox #8

You confirm that you received a copy of the contract via email at <<email address>>

<<Include downloadable link to Contract>>

Checkbox #9

You confirm that you received a copy of the Disclosure Statement via email at <<email address>>

<<Include downloadable link to Disclosure Statement >>

Checkbox #10

You confirm that you received a copy of the two Price Comparison Statements via email at <<email address>>

<<Include downloadable link to Price Comparison Statements>>

Checkbox #11

You confirm and understand that savings under the contract are not guaranteed

Checkbox #12

You confirm and understand that the unit price per kWh/m³ under the contract is <<price>>

Checkbox #13

You confirm and understand that other charges continue to apply, such as delivery charges and taxes

<<Can include additional explanation of charges pursuant to Contract>>

Checkbox #14 (applicable to electricity Contracts only)>>

You confirm and understand that the Global Adjustment charge will appear as a separate billed line item on your bill once you've completed your enrollment with <<Provider Name>>

<<Include a description of the Global Adjustment, including helpful links>>

Checkbox #15

You confirm that you wish to proceed with the contract with <<Provider Name>>

<<Can include additional information, such as a contract summary>>

Checkbox #16

You confirm and understand that you may cancel the contract up to 30 days after you receive the second bill with <<Provider Name>>, and if you choose to cancel within the time period, cancellation fees will not apply. However, if you choose to cancel after that, cancellation fees may apply.

Information Statement

You confirm and understand that a letter will be sent after completing this confirmation of your contract with << Provider Name>>

Checkbox #17 (yes/no checkbox)

Would you like to visit the Ontario Energy Board website?

If Yes:

<<Provide link to the OEB website>>

Final Submission Button

Appendix B

Planet Energy appreciates the opportunity to comment on the Notice of Revised Proposal to Amend a Code and to Amend a Rule issued by the Ontario Energy Board on September 8, 2016. In addition to the above noted matter, Planet Energy wishes to comment on the Global Adjustment charges within the proposed materials, and general comment regarding the materials presented for use.

Introduction and Summary

Pertaining to the listing of the Global Adjustment charges within the Terms and Conditions, under Section *“Other energy costs: Charges you must still pay to others”*, Planet Energy believes that a minor modification to the proposed Terms and Conditions would be highly beneficial to consumers. The simple modification is to ensure that all data being presented to consumers is the same in all documents and materials.

With regards to the materials currently being proposed for use, Planet Energy recommends a full and complete review of all final materials, with all Retailers and/or Marketers, as well as other effected industry participants.

Modification of the Terms and Conditions to Avoid Consumer Confusion and Create Homogenous Materials

The proposed Terms and Conditions have a historical monthly Global Adjustment rate within the section entitled: *“Other energy costs: Charges you must still pay to others”*. It is Planet Energy’s belief that a one month historical price listing would: a) be highly confusing to consumers, and; b) be highly misleading to consumers. Planet Energy believes that displaying a one month historical amount for the Global Adjustment would confuse consumers, as the prior months Global Adjustment rate is no indication of future Global Adjustment rates. As a result, the one month historical rate would be highly misleading and would lead to increased consumer confusion and a misrepresentation of rates. It is also near certain that the Global Adjustment rate on the consumer’s first bill will not match the Global Adjustment rate listed in the Terms and Conditions. In addition, this one month historical Global Adjustment rate would not match the 6 month projected Global Adjustment rate in the Price Comparison forms, leading to further confusion and potential misrepresentation of the Global Adjustment rate.

It is Planet Energy’s recommendation that the noted section in the Terms and Conditions display the same rate outlined in the Price Comparison forms. Doing such would bring unity between all documentation and eliminate potential issues in displaying multiple Global Adjustment rates on consumer documentation. In addition, a reference to the IESO website could be added to the materials as a source of information on the historical price of the Global Adjustment.

A Full and Complete Review to Ensure Consumer Protection

Planet Energy had previously noted that the materials which are currently being proposed for use are incomplete, and not in their final format. In addition, there has not been any consultation or review with

Retailers and/or Marketers, or other industry participants. While some comments can be made at this stage, Planet Energy believes that such comments would be incomplete, and not thorough.

In consideration of the nature and impact of the proposed materials, and the impact on consumers as well as Retailers and Marketers, it is Planet Energy's believe that a review and consultation of the materials would be required prior to making any of the materials final and in force and effect. Not doing so in Planet Energy's view would be imprudent and would cause harm to consumers and industry participants.