

M A N I T O B A) **Order No. 65/15**
)
THE PUBLIC UTILITIES BOARD ACT) **July 3, 2015**

BEFORE: Régis Gosselin, B ès Arts, MBA, CGA, Chair
Neil Duboff, BA (Hons), LLB, TEP, Member
Marilyn Kapitany, B.Sc. (Hon), M.Sc., Member

**ORDER ESTABLISHING A
CODE OF CONDUCT FOR DIRECT PURCHASE NATURAL GAS TRANSACTIONS
AND
RELATED COMPLIANCE DOCUMENTS**

TABLE OF CONTENTS

1.0	Executive Summary	3
2.0	Background and Procedural History.....	4
3.0	Implications for Centra’s Fixed Rate Primary Gas Service.....	5
4.0	Training	7
5.0	Confirmation Letters.....	8
6.0	Rescission of 2008 Code and Ancillary Compliance Documents.....	9
7.0	Summaries of Complaints	9
8.0	Implementation Timeline	9
9.0	IT IS ORDERED THAT:	11

1.0 Executive Summary

By this Order, the Public Utilities Board (“Board”) establishes a new Code of Conduct for Direct Purchase Natural Gas Transactions (“Code”). This Code applies when users of natural gas contract with a gas marketer to purchase natural gas at rates set by the marketer, rather than purchasing their natural gas from Centra Gas Manitoba Inc. (“Centra”) at rates set quarterly by the Board. This Code applies to the Direct Purchase of Primary Gas under the Western Transportation Service.

The Code established by this Order replaces the existing Code of Conduct for Direct Purchase Transactions established by Order 109/08 (the “2008 Code”).

The Code established by this Order introduces some significant changes compared to the 2008 Code and is being introduced with a transition period before the new Code applies. The most significant changes are as follows:

- The reduction of the “Small-Volume Customer” threshold to 5,000 cubic metres per year, which captures almost all residential customers;
 - The requirement for an “Intent to Buy” process for small-volume customers with a waiting period for additional consumer protection;
 - The extension of the cancellation period for small-volume customers;
 - The requirement for marketers to obtain Board approval of the cancellation fees charged to small-volume customers;
 - The requirement for an “Annual Information Notice” to be provided by marketers to their small-volume customers;
 - The requirement for marketers to provide prospective small-volume customers with a “Disclosure Statement” and a “Rate Comparison”;
 - The requirement for marketers to submit a training curriculum and training materials to the Board for approval prior to marketing to small-volume customers;
- and

- A formalized two-stage dispute resolution process.

2.0 Background and Procedural History

Traditionally, natural gas in Canada is sold through local gas utilities, also known as local distribution companies. In Manitoba, the local distribution company for natural gas is Centra, a fully-owned subsidiary of Manitoba Hydro. The Board regulates Centra as a utility governed by *The Public Utilities Board Act* (the “Act”) and sets Centra’s Primary Gas rates per cubic metre on a quarterly basis. Primary Gas is the name given to natural gas received in Western Canada for transport to Manitoba by Centra and usually makes up the greatest percentage of gas consumed by Centra’s customers. Supplemental Gas is gas purchased from other sources than Western Canada, such as from the United States, and assists in meeting the increased demand for gas in the winter season. Natural gas purchased from Western Canada on a short term basis is also considered Supplemental Gas. Both Primary Gas and Supplemental Gas are sold by Centra at cost, without a mark-up to customers.

Since 1991, gas marketers have offered contracts to provide greater pricing certainty to consumers. Gas continued to be delivered and invoiced by Centra; however, since 2000, under the Western Transportation Service, the price for the gas itself was set by the marketer, without Board approval of such prices being required. The conduct of the marketers has been regulated by codes of conduct, the most recent revision being the 2008 Code established in Order 109/08. In all circumstances, marketers are required to be licensed by the Board prior to marketing gas in Manitoba.

In 2013, the Board embarked on a review of the 2008 Code, largely as a result of the customer experience with marketers to date, the Board’s experience with respect to marketer-related complaints, and what the Board saw as the underlying issues leading to such complaints. The Board invited all licensed gas marketers in Manitoba to consult on changes to the 2008 Code and, on January 23, 2015, provided a draft Code, along

with related documents stipulated by the Code, for consultation. The Board received written comments from the following four parties:

- Just Energy Manitoba L.P. (“Just Energy”);
- Shell Energy North America (Canada) Inc.;
- Canadian Energy Wholesale Gas & Electric Corporation; and
- Centra Gas Manitoba Inc.

As a result of the comments received, the Board made further revisions to the proposed Code, which are reflected in the finalized Code appended to this Order.

In addition to the Code, this Order also establishes the following forms required pursuant to the Code:

- Guide – Purchasing Natural Gas in Manitoba;
- Annual Information Notice;
- Disclosure Statements;
- Rate Comparisons;
- Training Certificate; and
- Confirmation Letters.

3.0 Implications for Centra’s Fixed Rate Primary Gas Service

Non-Application of the Code of Conduct

The Board notes that Centra is currently offering fixed-rate Primary Gas contracts, under Centra’s Fixed Rate Primary Gas Service, exclusively through direct mail channels as approved by the Board in Order 156/08. Centra’s conduct in offering fixed-rate, fixed term contracts is regulated pursuant to a separate document known as the Centra Gas Manitoba Inc. Fixed-Rate Primary Gas Service Standard of Conduct (“Standard of Conduct”). The Board established the Standard of Conduct in Order 19/09

following an extensive review into Centra's proposed offering of fixed-rate, fixed-term Primary Gas contracts in 2008.

Centra is the only Board-regulated utility in Manitoba that engages in fixed-rate sales of natural gas. Given the fact that Centra is a regulated utility and does not sell fixed-rate gas pursuant to door-to-door transactions, telemarketing or electronic means, the Board will not extend the Code established by this Order to Centra. Centra will therefore continue to be regulated by the Standard of Conduct.

The Board received comments from Just Energy that Centra should not be regulated on a more favourable basis than private industry and agrees with those comments. However, the Board notes that, unlike private marketers, Centra cannot currently expand the marketing channels of its fixed-rate offerings without prior approval of the Board. Centra has made no indication to the Board that it intends to expand into other marketing channels. If and when the Board is presented with such an application, the Board will consider what changes to the Standard of Conduct are warranted.

Required Changes to Centra's Fixed Rate Primary Gas Service

Notwithstanding the non-application of the attached Code to Centra, the Board notes that the implementation of the Code requires several modifications to Centra's Fixed Rate Primary Gas Service offerings in order to avoid an unfair competitive advantage. Centra is therefore directed to, prior to or upon the coming into force of the Code:

- Stipulate in any new contract for Fixed-Rate Primary Gas Service with a customer who would be deemed to be a "Small-Volume Customer" pursuant to the attached Code that the contract may be cancelled by the customer at any time from the date of entering into the Contract until 30 days after the date of the first bill for Primary Gas under the contract;
- Obtain approval from the Board for any early cancellation fees stipulated in a contract for Fixed-Rate Primary Gas Service;

- Provide any customer to whom Centra is marketing Fixed-Rate Primary Gas Service and who would be deemed to be a “Small-Volume Customer” pursuant to the attached Code with a disclosure statement and rate comparison in the form appended as Appendices “G” and “K”, respectively, to this Order at the time such marketing activities are initiated by Centra;
- No earlier than the first day of September and no later than the fifteenth day of September of each year under a contract for Fixed-Rate Primary Gas Service for which the 30-Day cancellation period set out above has expired, provide any customer under such a contract who would be deemed to be a “Small-Volume Customer” pursuant to the attached Code with an Annual Information Notice in the form appended as Appendix “C” to this Order.

The Board will require Centra to file its amended form of contract for approval by the Board by October 1, 2015.

4.0 Training

Training Certificates

Section 14 of the new Code requires any salesperson wishing to carry on marketing of natural gas to small-volume customers, as defined in the Code, to be trained on the Code and, together with the applicable marketer, sign and file with the Board a certificate confirming that the salesperson has completed the training and understands the rules and obligations imposed by the code and the applicable laws. The prescribed form of certificate is attached to this Order.

The Board will establish a numbering convention for certificates that marketers are to use.

Training Materials

Clause 14.2 of the new Code specifies that marketers shall develop training materials and a training curriculum, and, where marketers intend to market to small-volume customers, to submit the training curriculum and materials to the Board for approval.

Marketers that market to small-volume customers shall submit to the Board their entire training curriculum and training materials by the date specified in Schedule A of this Order.

5.0 Confirmation Letters

Order 109/08 established confirmation letters that were to be sent by Centra upon notification from the marketer to Centra that the customer had entered into a contract with the marketer for the supply of Primary Gas.

With this Order, the Board amends the confirmation letters sent to customers that enter into Primary Gas contracts with marketers under the Western Transportation Service or under Centra's Fixed Rate Primary Gas Service.

Appended to this Order are confirmation letters that apply to:

- Small-volume customers contracting with a marketer;
- Small-volume customers contracting with a marketer after early termination of an existing contract with a marketer;
- Non-small-volume customers contracting with a marketer using Agency Billing and Collection service;
- Non-small-volume customers contracting with a marketer not using Agency Billing and Collection service;
- Small-volume customers contracting with Centra; and
- Non-small-volume customers contracting with Centra.

6.0 Rescission of 2008 Code and Ancillary Compliance Documents

Order 109/08 approved, by way of seven appendices, not only the 2008 Code, but also ancillary compliance documents. All of the documents established by Order 109/08, including the 2008 Code, will be rescinded as of the date the new Code comes into force.

7.0 Summaries of Complaints

Clause 16.2 of the new Code requires marketers to file summaries of any complaints received each quarter. The summary must be filed within 30 days of the end of each calendar quarter. The initial filing of this summary is required by April 30, 2016. Any marketers that received a complaint from a customer in the period January 1, 2016 to March 31, 2016 must file a summary of the complaint or complaints, whether or not the complaint or complaints have been satisfactorily resolved.

8.0 Implementation Timeline

The Board recognizes that the Code established by this Order requires a transition period for marketers to revise their business procedures, create the materials required by the Code, file them with the Board where required, and obtain approval from the Board. Therefore, the new version of the Code will apply starting on January 1, 2016. In order to meet this implementation date, the following timeline is established.

Marketers intending to market to small-volume customers as of January 1, 2016 are to file the following documents on or before the dates specified in Schedule A to this Order:

- Proposed cancellation fee per clause 3.3 of the Code;
- Telephone scripts per clause 4.7 of the Code;
- The forms of Intent to Buy per clause 7.8 of the Code;
- The forms of Contract per clause 7.8 of the Code;

- Training materials per section 4.0 of this Order; and
- Marketing materials per clause 4.1(c)(iv) of the Code.

Marketers who wish to market to small-volume customers but who do not adhere to the implementation timelines in Schedule A may file the required materials at any time but will be subject to timelines for approval of the materials as set by the Board.

9.0 IT IS ORDERED THAT:

1. The Code of Conduct for Direct Purchase Natural Gas Transactions appended as **Appendix “A”** to this Order **BE AND HEREBY IS ESTABLISHED** and shall take effect on January 1, 2016.
2. The following forms of documents **BE AND HEREBY ARE PRESCRIBED** for purposes of the Code appended as Appendix “A” to this Order:
 - (a) The form appended as **Appendix “B”** is prescribed as the Guide – Purchasing Natural Gas in Manitoba required to be provided pursuant to clause 4.3 of the Code.
 - (b) The form appended as **Appendix “C”** is prescribed as the Annual Information Notice required to be provided pursuant to section 10.0 of the Code.
 - (c) The forms appended as **Appendices “D” - “G”** are prescribed as the Disclosure Statements required pursuant to section 8.0 of the Code for each of the following transactions:
 - (i) **Appendix “D”**: Door-to-Door Transactions;
 - (ii) **Appendix “E”**: Contracts resulting from Electronic communications;
 - (iii) **Appendix “F”**: Contracts resulting from Telemarketing;
 - (iv) **Appendix “G”**: Direct Mail Transactions.
 - (d) The forms appended as **Appendices “H” - “K”** are prescribed as the Rate Comparison templates required pursuant to section 8.0 of the Code for each of the following transactions:

- (i) **Appendix “H”**: Door-to-Door Transactions;
 - (ii) **Appendix “I”**: Contracts resulting from Electronic communications;
 - (iii) **Appendix “J”**: Contracts resulting from Telemarketing;
 - (iv) **Appendix “K”**: Direct Mail Transactions.
- (e) The form appended as **Appendix “L”** is established as the training completion certificate required pursuant to section 14.0 of the Code.
- (f) The forms appended as **Appendices “M” - “R”** are prescribed as the Confirmation Letter templates to be sent to customers by Centra upon notification of a customer’s decision to switch Primary Gas suppliers.
3. Effective January 1, 2016, all documents established by Order 109/08 **BE AND HEREBY ARE RESCINDED.**
4. Marketers intending to market to small-volume customers are to provide to the Board the documents and materials required by the Code no later than the dates set out in **Schedule A** to this Order.
5. Centra is directed to, by no later than January 1, 2016:
- (a) Stipulate in any new contract for Fixed-Rate Primary Gas Service with a customer who would be deemed to be a “Small-Volume Customer” pursuant to the attached Code that the contract may be cancelled by the customer at any time from the date of entering into the Contract until 30 days after the date of the first bill for Primary Gas under the contract;
 - (b) Obtain approval from the Board for any early cancellation fees stipulated in a contract for Fixed-Rate Primary Gas Service;

- (c) Provide any customer to whom Centra is marketing Fixed-Rate Primary Gas Service and who would be deemed to be a “Small-Volume Customer” pursuant to the attached Code with a disclosure statement and rate comparison in the form appended as Appendices “G” and “K”, respectively, to this Order at the time such marketing activities are initiated by Centra; and
 - (d) No earlier than the first day of September and no later than the fifteenth day of September of each year under a contract for Fixed-Rate Primary Gas Service for which the 30-Day cancellation period set out above has expired, provide any customer under such a contract who would be deemed to be a “Small-Volume Customer” pursuant to the attached Code with an Annual Information Notice in the form appended as Appendix “C” to this Order.
6. Centra is directed to file its amended form of contract pursuant to Directive 5 above with the Board for approval by no later than October 1, 2015.

Board decisions may be appealed in accordance with the provisions of Section 58 of *The Public Utilities Board Act*, or reviewed in accordance with Section 36 of the Board's Rules of Practice and Procedure. The Board's Rules may be viewed on the Board's website at www.pub.gov.mb.ca.

THE PUBLIC UTILITIES BOARD

"RÉGIS GOSSELIN, B ès Arts, MBA, CGA"

Chair

"KURT SIMONSEN"

Acting Secretary

Certified a true copy of Order No. 65/15
issued by The Public Utilities Board

Acting Secretary

SCHEDULE A

Marketers intending to conduct any Marketing within the meaning of the Code approved pursuant to this Order beyond January 1, 2016 shall provide the required documentation stipulated in the Code to the Board for approval by no later than the following dates:

Proposed cancellation fee per c.3.3 of the Code	October 1, 2015
Telephone scripts per c.4.7 of the Code	October 1, 2015
The forms of Intent to Buy per c.7.8 of the Code	October 1, 2015
The forms of Contract per c.7.8 of the Code	October 1, 2015
Training materials per s.4.0 of this Order	November 1, 2015
Marketing materials per c.4.1(c)(iv) of the Code	November 1, 2015