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MEMBER COMMUNICATION

ALERT N°: 09/086

To the attention of the Clerk and Council
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PROPOSED ENERGY CONSUMER PROTECTION ACT

ALERT

Issue:

The Province introduced new legislation today that intends to protect consumers from hidden contract costs, provide greater fairness and transparency on rate comparisons.

Background:

Utility rates and retailer operations are approved and licensed by the Ontario Energy Board (OEB). O. Reg 200/02 under the *Ontario Energy Board Act, 1998*, includes a fairly lengthy list of acts or omissions of a retailer of electricity or gas marketer that are considered unfair related to utility rates, contract terms and details, as well as contract renewals, extensions, and cancellations. In addition, the OEB sets out "Fair Marketing Practices" in the *Electricity Retailer Code of Conduct* and the *Code of Conduct for Gas Marketers*.

The OEB also created a Retail Compliance Plan (RCP) in early 2009 to verify that licensed electricity retailers and natural gas marketers are in compliance with their legal and regulatory obligations. Throughout the spring and summer OEB staff conducted inspections of selected electricity retailers and natural gas marketers — focusing on contract management and sales agent training and monitoring. OEB staff have completed their inspections and have issued a Retail Compliance Plan Staff Report. A number of energy retailers have been investigated and fined in 2009 as part of this work.

The proposed legislation attempts to build on lessons learned from the OEB Retail Compliance Plan exercises and to address concerns that have been commonly voiced in consumer complaints.

In addition, the proposed Act intends to enable tenants to be directly financially responsible for the amount of energy that they use by encouraging suite-metering. The Province has already moved forward to enable individual suite metering in condominiums whereas the next phase aims to target the 1.3 million residential rental units in Ontario -- 1.05 million of which are in the private rental market and 262,000 are social housing and assisted units.



Finally, the new legislation would also provide the government authority to establish specific requirements for energy and suite-metering companies to follow with regard to disconnections and security deposits, which could include:

- Requirements that utilities and suite metering companies need to meet for disconnections including: black-out periods (e.g., winter months); special medical reasons (e.g., disability, death of a spouse); and
- Prescribed reductions (or waivers) of security deposits for vulnerable consumers who are recipients of energy assistance from government or other sources such as the Winter Warmth Program.

What the proposed *Energy Consumer Protection Act, 2009*, means for municipal governments:

1. *Consolidating and strengthening standards for energy retailers:*

Municipalities that have contracts with energy retailers or that participate in purchasing co-operatives may be impacted by the proposed changes. These changes do enhance consumer protection for the most part but two clauses may negatively impact certain public sector energy procurement practices without necessarily improving consumer protection: eliminating evergreen renewals and mandating the exact price of a commodity to be delivered in the contract. The former will result in an unnecessary administrative burden and expense while the latter change threatens to severely restrict well-established procurement and hedging strategies to the detriment of municipal energy consumption and utility rates.

AMO has offered similar early comments to the Minister and will pursue them further as the pertinent regulations are developed to ensure that municipal and other broader public sector (BPS) partners' procurement efforts are not negatively impacted.

2. *Removing impediments to metering in multi-residential buildings:*

The costs of individual suite-metering to municipal housing providers and service managers would be high due to extensive and costly rewiring of units. As a result, AMO is pleased that the Province is not planning to make this mandatory for existing facilities, and the Association will seek exemption for any new social housing stock. AMO is also concerned with the logistics of proposed rent decreases as they will have to be made up by the landlord (i.e. the municipality), and tenants are generally struggling with a range of issues the least of which may be energy conservation.

3. *Developing a policy regime to protect low-income, vulnerable consumers:*

The proposed changes to disconnection and security deposit policies will affect local distribution companies directly but will not impact municipalities per se.

AMO strongly supports moves to enhance the protection of low-income consumers and pledges to work with the Ministry on reaching the LDC community during the development of the pertinent regulations.

Actions: For information.

This information is available in the Policy Issues section of the AMO website at www.amo.on.ca.