

December 15, 2004

TO: MARKET PARTICIPANTS

RE: CODE OF CONDUCT REGULATION

Pursuant to s. 43 of the *Code of Conduct Regulation* (Code) and the mandate granted to the MSA under the *Electric Utilities Act*, the MSA has taken the action described below.

Annual Compliance Reporting

Section 34 of the Code establishes certain reporting obligations for owners of electric distribution systems and affiliated retailers – *annual* compliance reports and *quarterly* compliance reports.

Section 34(2) of the Code requires that the annual compliance report be filed with the MSA by January 30th of each year, after having been approved by the board of directors of the reporting entity. However, based upon feedback received from various parties the MSA understands that the January 30th deadline can pose considerable challenges for an organization which does not have a regularly scheduled board meeting during January. The same would hold true for municipal organizations with their unique governance structures (municipal council).

Under the circumstances, there does not appear to be any sufficiently compelling reason to require parties to undergo the cost of an extra meeting or extra reporting, given that the public interest can be served through alternative timing.

Therefore, in accordance with its powers and responsibilities under the Code, the MSA will allow some leeway to parties in respect of this filing deadline. Until further notice, the annual compliance report may be filed at any time during the 1st quarter of the year; that is, not later than March 31st. Filing of the annual compliance report within this extended deadline will be treated as satisfactory compliance with s. 34(2) of the Code.

This changed reporting schedule does not affect the requirement to file the quarterly compliance reporting. As previously indicated, the MSA is requesting that a copy of the quarterly compliance reporting be provided to us on a timely basis, after the end of each relevant period.

Compliance Audits

Section 40 of the Code stipulates the timing for compliance audits, as well as other matters.

The MSA has heard from various parties that the timing poses undue challenges, in that annual financial audits are required to occur during the first half of the year. The burden of several large system audits being underway concurrently can drive up the cost of the audit resources and create significant strain on personnel and other resources. Further, it appears that the public interest can be served by having Code compliance tested at different points throughout the year. It is noteworthy that the Code actually contemplates different testing points in s. 40, depending upon the operations of the owner and affiliated retailer.

We would also note the review currently underway re: various parties in relation to interim compliance plan approvals which were in effect during the first half of 2004 (see also previous communications about the interim approvals). This review is being conducted pursuant to the overall mandate of the MSA, with particular focus on Code related matters. To the extent that the review provides assurance re: Code compliance during the period January 1st through June 30th, 2004 inclusive, the next period of review or audit can start July 1st, 2004, for affected parties.

Based upon these factors, the MSA has concluded that it is appropriate under the circumstances to move the relevant Code testing to the period following June 30th (i.e. during the 3rd quarter), commencing 2005 and until further notice.

Please do not hesitate to contact the MSA with any questions or comments about these or other matters.

Yours truly,

“Original signed”

W.W. (Wayne) Silk
Vice-President, Chief Operating Officer
Market Surveillance Administrator