



November 16, 2011

## Notice to Market Participants

### Re: Code of Conduct Regulation (Electric Utilities Act)

As part of its mandate the MSA has responsibility for enforcing the *Code of Conduct Regulation* (Code) enacted pursuant to the Alberta *Electric Utilities Act*. We have in that context been asked to consider certain matters arising in relation to the recent initiative of the Alberta Utilities Commission (AUC) in respect of efforts to protect vulnerable electricity and natural gas customers (see <http://www.auc.ab.ca/news-room/news-releases/News%20Releases/2011/News%20Release%202011-05.pdf>).

As a general comment, the MSA believes that this initiative is consistent with the policy objectives underlying the Code as well as the language of that enactment. We have set out below two specific scenarios on which we were asked to comment regarding actions taken by an electricity provider (generally speaking, the wire owner or regulated rate provider) pursuant to this initiative.

1. The AUC initiative contemplates that in certain circumstances, as the winter season approaches, it may be necessary for an electricity provider to share customer information with third parties such as the Utilities Consumer Advocate in order to help ensure that customers are not left at risk from disconnection of service. The consent of the customer for such a sharing of information may not be in hand at the critical point, for a variety of reasons.

In our view, so long as the customer has not clearly precluded the sharing (disclosure) of their information in such circumstances, subsection 10(1)(c) of the Code can reasonably be interpreted to allow it.

That provision creates an exception to the requirement for consent where “*the disclosure is solely for the purpose of preventing interruption of electricity services*”.

Under the AUC initiative, the disclosure and use of the customer information by the parties would be documented and limited to efforts to ensure that the interruption of electricity services can be avoided (the MSA interprets "interruption" to include a pending or continuing disconnection of electricity at a site). This should be of benefit to the customer, if they would otherwise be at risk.

Further, we note that this interpretation appears to be consistent with provisions of the Alberta *Personal Information Protection Act*, as per views expressed by the Office of the Information and Privacy Commissioner regarding the AUC initiative (see <http://www.oipc.ab.ca/pages/home/default.aspx>).

2. In some circumstances, such as where a site has been disconnected but is still occupied as a residence by a person other than the previous customer, the electricity provider may itself be in a position to provide basic and timely information about electricity services. For example, information regarding how to set up an account. Such communication may occur during visits to the site by the electricity provider or in telephone communications as part of efforts to contact the previous customer/occupant regarding the disconnect status, as contemplated in the AUC initiative.

In our view, so long as the electricity provider is not providing information about retail electricity services in a manner which would be inconsistent with the Code there is no issue. For example, any discussion of competitive retail options should be prefaced with the disclosures about customer choice as set out in the Code.

We trust that this will be helpful. In any event, please feel free to contact us with any questions or comments. The designated MSA person for this is Mike Nozdryn-Plotnicki, who can be reached via telephone at 403.705.8503 and email at [mike.nozdryn-plotnicki@albertamsa.ca](mailto:mike.nozdryn-plotnicki@albertamsa.ca).

Yours truly,

*"Original Signed"*

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