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September 6, 2013

VIA electronic submission

Alberta Securities Commission
Autorité des marchés financiers
British Columbia Securities Commission
Manitoba Securities Commission
New Brunswick Securities Commission
Nova Scotia Securities Commission
Ontario Securities Commission

Re: Proposed Ontario Securities Commission Rules 91-506 Derivatives: Product Determination and 91-507 - Derivatives: Trade Repositories and Derivatives Data Reporting

Dear Members of the Canadian Securities Administrators Derivatives Committee:

Just Energy Group Inc. ("Just Energy"), on behalf of itself and its subsidiaries, welcomes this opportunity to submit comments to the Canadian Securities Administrators Derivatives Committee (the "Committee") on Proposed Ontario Securities Commission Rules 91-506 – *Derivatives: Product Determination* and 91-507 – *Derivatives: Trade Repositories and Derivatives Data Reporting* published on June 6, 2013 (the "Proposed Rules"). Please note that our comments apply equally to the other proposed model rules and regulations published on June 6, 2013 by or on behalf of the other Canadian securities regulatory authorities.

Just Energy

Just Energy, through its subsidiaries, is a leading independent supplier of electricity and natural gas to residential and small to mid-size commercial consumers in Canada, the United States and the United Kingdom. In Canada, the Just Energy family of companies provides electricity in Alberta and Ontario and offers natural gas in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and Quebec. Just Energy also is one of the largest competitive green energy retailers in North America.

To meet its delivery obligations to its Canadian customers, Just Energy purchases power and natural gas on a wholesale basis. Just Energy also periodically sells power and natural

gas back into the wholesale markets when it has more supply than is needed to meet its customers' demands.

Just Energy provides power and natural gas to residential and commercial consumers under long-term fixed-price or price-protected contracts. The provision of such services is subject to Provincial utility regulations in each of the provinces in which Just Energy conducts its business. Just Energy also hedges its cross-border cash flow.

We have two comments with respect to Proposed Rule 91-506:

1. We applaud the accommodation of the notion of intent to deliver, including the notion of a book-out, that will align Canadian regulation with that in the United States. We note however that Section 2 (c) of Proposed Rule 91-506 continues to exclude foreign exchange derivatives that require settlement by delivery of the currency referenced in the contract provided that such settlement essentially take place within two business days but does not extend this exemption to ALL foreign exchange derivatives that require settlement by delivery of the reference currency. This is a departure from the exemption that the US Secretary of the Treasury issued on November 16, 2012. We acknowledge that these transactions will still be subject to reporting in the US as noted in the Appendix A - *Comment Summary and CSA Responses* and note the Committee's intention to revisit the treatment of deliverable foreign exchange derivatives for other regulatory requirements. We question whether having multiple definitions of derivatives for the purposes of different rules is desirable and urge consideration of a consistent definition of derivatives.

2. We continue to be concerned regarding the Committee's view that exempt derivatives do not include contracts related to hedging. As mentioned in our prior comments on Consultation Paper 91-301, the largest practical matter that we saw in the Consultation Paper (and which remains unchanged in the current Proposed Companion Policy) is contained in Part 2(h) of the Proposed Companion Policy 91-506 CP:

   > *"Apart from the contracts and instruments expressly prescribed not to be derivatives in section 2 of the Scope Rule, there are other contracts or instruments which we would not be considered to be "derivatives" for the purposes of the Act. A feature common to these contracts and instruments is that they are entered into for consumer, business or non-profit purposes that do not involve investment, speculation or hedging. Typically, they provide for the transfer of ownership of a good or the provision of a service." (emphasis added)*

   Although we agree that the exemption should not be extended to derivatives entered into for investment or speculative purposes, we do not believe that it was the intent of the Committee to exclude from the exemption contracts that are entered into for hedging purposes. Hedging, as conducted by Just Energy and other companies, removes risk from the market. Furthermore, the end-user exemption under Dodd-Frank expressly accommodates hedges for commercial purposes, which is contrary to the view in taken in the Proposed Companion Policy. In our view, to require reporting and clearing of derivatives that are entered into expressly for hedging

purposes will cause companies to question the use of such hedges given the additional costs to report and clear. This has the potential to increase overall market risk, contrary to these reforms' stated objective of reducing systemic risk.

We also have several comments with respect to Proposed Rule 91-507:

1. The definition of a dealer encompasses a "person or company engaging in … the business of trading in derivatives as principal or agent". Just Energy is not in the business of trading derivatives; it is in the business of selling electricity and natural gas to consumers. It should not be captured in the definition of a dealer merely because certain hedging activities ancillary to its main business might be characterized as engaging in dealing in derivatives. Nor should it be captured as a dealer as a result of the way in which the electricity and natural gas markets are structured. In order to sell electricity and natural gas, Just Energy must participate as an agent in some markets.

2. The revised definition of "local counterparty" does not appear to eliminate concerns regarding undue extra-territorial effect or multiple reporting obligations. Just Energy has several affiliates within Canada and abroad which have their head offices located in Ontario. The current definition will capture all these affiliates. This is not of concern for the non-Canadian subsidiaries of Just Energy since it is only Canadian entities that trade for the Canadian business and the Proposed Rules are therefore not applicable to these foreign subsidiaries. However if we trade through our Alberta subsidiary, as an example, we believe that there will be duplicative reporting requirements even under the revised definition. Our Alberta subsidiary will be captured by parts (a) and (c) of the definition, will be considered a local counterparty for OSC and ASC purposes and will need to report both in Alberta and in Ontario as a result of this definition. While this may not be unduly onerous if the reporting requirements in each Canadian jurisdiction are identical, it highlights the importance of uniformity across Canada.

3. We note that the definition of a "transaction" includes the novation of a derivative. As noted in our comments on CSA Consultation Paper 91-301, we do not believe that it is the intent of the Proposed Rules, where the novation is required as a result of other requirements (e.g. novation of the transport of a commodity between a utility and a retailer, or where assignment is required as part of credit and collateral arrangements) to have these activities trigger data reporting requirements.

4. We note that life-cycle data must be reported by the end of the day the life-cycle event occurred rather than affording a Reporting Counterparty the ability to report at the end of the day following the life-cycle change as is permitted for transactions under Section 28. Furthermore, we note that errors are also required to be reported no later than the end of the business day on which the error or omission is discovered. This can be problematic if discovery is at 4:50pm. We suggest there be greater consistency in reporting timetables.

5. The commentary on Section 39 in Appendix A implies that inter-affiliate trades require reporting, however we note that the CFTC has issued no-action relief in

respect of inter-affiliate trades exempting them from reporting requirements in specified circumstances[1]. We encourage consistency in regulation between Canada and the US in this regard.

6. We note that collateralization reporting does not consider the possibility of bespoke arrangements that are outside of the current definitions of fully, partially and one-way collateral arrangements described in Appendix A to Rule 91-507 and encourage the Committee to make a bespoke alternative available.

7. The reporting requirements for options appear to require bifurcation and separate reporting for embedded options. We request clarity as to whether this is the intent.

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Just Energy asks the Committee to reflect on these comments. Please contact us if you have any questions or concerns.

Respectfully submitted,

/s/ Stephanie Bird
Stephanie Bird
SVP, Corporate Risk Officer

[1] CFTC Letter No. 13-09 No Action. April 5, 2013.

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