

EfficiencyOne Code of Conduct Governing Affiliate Transactions

PREFACE

The EfficiencyOne Code of Conduct (the “Code”) applies to EfficiencyOne’s electricity efficiency and conservation activities as regulated by the Nova Scotia Utility and Review Board (the “Board”) and referred to and operated as the Efficiency Nova Scotia (ENS) franchise. These franchise activities (“Regulated Activities”) are set out in the *Public Utilities Act*, RSNS 1989, c 380, which provides that, among other things:

- i. the Minister of Energy may grant an electricity efficiency and conservation franchise (section 79C); and
- ii. the franchise holder is deemed to be a public utility in relation to its franchise activities (section 79G(2)).

On 28 November 2014, the Minister of Energy granted this electricity efficiency and conservation franchise to EfficiencyOne, making it a public utility (the “Utility”) in relation to these Regulated Activities. Under the Grant of Franchise, the Minister of Energy also allowed the ENS name to be used for certain unregulated (non-franchise) activities that meet specified conditions, including where the licensee (EfficiencyOne) provides efficiency and conservation activities to the Province of Nova Scotia (PNS). Importantly, the Code does not apply to these PNS activities as their costs are already governed by a Board-approved Cost Allocation Methodology (CAM).

The Board-approved CAM ensures EfficiencyOne’s costs are properly allocated between its Regulated Activities and its unregulated PNS activities. The CAM is unaffected by the Code, which was designed to operate harmoniously alongside the CAM.

EfficiencyOne’s Internal Guidelines support the Code, though they are not provided for Board approval.

STATEMENT FROM THE CHIEF EXECUTIVE OFFICER

The EfficiencyOne Code of Conduct governs interactions between the Utility and its Affiliates. The Code provides a clearly defined set of rules that are designed to protect the Utility and keep Nova Scotia’s electricity ratepayers unharmed by the interactions between the Utility and its Affiliates.

The EfficiencyOne Executive Leadership Team fully endorses and adopts the principles, spirit, and intent of the Code and expects all employees of the Utility and its Affiliates, to the extent they interact with the Utility, to comply with all provisions of the Code.

1 PURPOSE, STATEMENT OF PRINCIPLES, AND APPLICATION OF THE CODE

1.1 Purpose

The purpose of the Code is to set out standards and parameters for the interaction between the Utility and its Affiliates to prohibit conduct that may adversely affect the Utility.

The standards established in the Code are intended to ensure:

- (a) the Utility does not cross-subsidize Affiliate activities;
- (b) the Utility does not bear any risk or financial loss because of Affiliate activities;
- (c) the Utility's organization and management is focused on Utility operations;
- (d) NSPI's customer information, maintained by the Utility, is protected in transactions between the Utility and its Affiliates;
- (e) the Utility's financial records and other financial information are separate from those of its Affiliates;
- (f) Affiliates do not receive preferential access to Utility services and/or the Utility does not receive preferential access to Affiliate services; and
- (g) the Utility complies with the Code with a sufficient level of transparency.

1.2 Statement of Principles

1.2.1 *Transparency*

The Utility will precede any transaction by which it acquires from or provides to an Affiliate any goods, services, leases, asset transfers, or other exchanges of value, with a sound, objective, and transparent process and reasonable documentation;

- (a) The process and documentation shall identify and then compare transacting with an Affiliate to: (i) provisioning through other, reasonably available commercial alternatives; (ii) self-provisioning by the Utility; (iii) joint Utility/third-party provisioning; (iv) joint Utility/Affiliate provisioning; and (v) such other arrangements as may be reasonably available under the applicable circumstances at the time of the decision.
- (b) For transactions below \$125,000 in aggregate value (determined by adding together all similar transactions with the same Affiliate during any consecutive 12-month period), the comparison of alternatives and documentation may be abbreviated as appropriate to avoid adding materially to the cost of the transaction, provided that the Utility provides sufficient documentation to demonstrate that the transaction complies with the standards of section 1.1 of this Code and that the Utility's actions to meet those standards preceded the decision to transact with an Affiliate.

1.2.2 *Best Available Option*

The Utility will only enter into Affiliate transactions when doing so has been demonstrated through sound, documented analysis to be the best available option for NSPI's ratepayers.

1.2.3 *Affiliate Activity Risks and Benefits*

NSPI's ratepayers will not otherwise bear the risks or share the rewards of an Affiliate's activities.

1.3 Application

The Utility is obligated to comply with this Code and all Affiliates are obligated to comply with this Code to the extent they interact with the Utility. This Code is not meant to replace or modify in any manner any statutory or regulatory requirements relating to the Utility.

2 GENERAL PROVISIONS

2.1 Definitions

In this Code,

- (a) "Affiliate" means:
 - (i) an "Affiliate" in accordance with sections 2(2), 2(3) and 2(5) of the *Canada Not-for profit Corporations Act*; and
 - (ii) any partnership, joint venture, or person deemed by the Board to be an Affiliate for the purpose of this Code.
- (b) "Affiliate Service" means any service provided by an Affiliate to the Utility and vice versa;
- (c) "Annual Compliance Report" shall have the meaning ascribed in section 8.3 of this Code;
- (d) "Benefit Costs" shall have the meaning ascribed in EfficiencyOne's Internal Guidelines;
- (e) "Board" means the Nova Scotia Utility and Review Board;
- (f) "Code" means this EfficiencyOne Code of Conduct;
- (g) "Compliance Officer" shall have the meaning ascribed in sections 8.1 and 8.2 of this Code;
- (h) "Confidential Information" means any information relating to a specific or potential NSPI customer that is not otherwise available to the public and was obtained or compiled in the process of providing current or prospective Regulated Activities;
- (i) "DSM Fund" is the fund that EfficiencyOne uses to account for the activities of the Utility;
- (j) "Emergency Circumstances" mean circumstances that, in accordance with section 8.8(e) of this Code, require the waiver of, or a delay in, performing or documenting any normal step in the data gathering, analysis, and decision process associated with demonstrating that a transaction between the Utility and an Affiliate is demonstrably the best option from among those reasonably available at the time for NSPI's ratepayers. Emergency

Circumstances shall be described in a document that shall be signed by a responsible officer of the Utility, signifying the officer's verification that conditions were sufficient to warrant the suspension of normal steps or a delay in documenting them. In accordance with sections 4.2.10 and 8.3(k) of this Code, the Compliance Officer shall report annually to the Board on, *inter alia*, a summary list of any emergency services exceptions granted pursuant to this Code in respect to the period of time covered by the Annual Compliance Report.

- (k) “Fair Market Value” or “FMV” means the price reached in accordance with the methodology outlined in section 6.5 of this Code;
- (l) “Fully Allocated Costs” shall have the meaning ascribed in EfficiencyOne’s Internal Guidelines;
- (m) “Grant of Franchise” means the grant to EfficiencyOne by the Minister of Energy, dated 28 November 2014, of the electricity efficiency and conservation franchise pursuant to section 79C of the *Public Utilities Act*;
- (n) “Information Services” means any computer systems, computer services, databases, electronic storage services or electronic communication media used by the Utility relating to its operations;
- (o) “NSPI” means Nova Scotia Power Incorporated;
- (p) “Occasional Services” means one-off or infrequent services, consistent with section 4.2.9 of this Code;
- (q) “Overhead Costs” shall have the meaning ascribed in EfficiencyOne’s Internal Guidelines;
- (r) “Regulated Activities” mean electricity efficiency and conservation services or activities carried on by the Utility pursuant to the Grant of Franchise for the exclusive supply to NSPI of reasonably available, cost-effective electricity efficiency and conservation activities which are regulated in accordance with section 79 of the *Public Utilities Act*;
- (s) “Salary Costs” shall have the meaning ascribed in EfficiencyOne’s Internal Guidelines;
- (t) “Services Agreement” means an agreement, in writing and signed by the parties, entered into between the Utility and one or more of its Affiliates, for the provision or receipt of Shared Services or Affiliate Services, and shall provide for the following matters as appropriate in the circumstances:
 - (i) the type, quantity, and quality of service;
 - (ii) pricing, allocation, or cost recovery provisions;
 - (iii) confidentiality arrangements;
 - (iv) dispute resolution provisions; and

- (v) a representation by the Utility and each Affiliate party to the agreement that the agreement complies with the Code and EfficiencyOne's Internal Guidelines.
- (u) "Shared Services" means any Affiliate Service provided on a cost recovery basis by or to the Utility in relation to the daily operation of its business. Shared Services may include "corporate services", such as:
 - (i) executive support and strategic activities related to the Affiliate;
 - (ii) financial accounting, reporting and planning;
 - (iii) financial services including tax, treasury, insurance and internal audit;
 - (iv) regulatory;
 - (v) human resources;
 - (vi) information technology; and
 - (vii) EfficiencyOne's Board of Directors costs.
- (v) "Utility" means EfficiencyOne, in relation to its Regulated Activities. In accordance with section 79G(2) of the *Public Utilities Act*, a franchise holder (EfficiencyOne) is deemed to be a public utility in relation to its franchise activities.

2.2 Interpretation

Headings are for convenience only and shall not affect the interpretation of this Code or its Internal Guidelines. A reference to a statute, document, or a provision of a document includes an amendment or supplement to, or a replacement of, that statute, document or provision of that document.

2.3 Filing Deadlines

All reports referred to in this document shall be provided by May 31 in respect of each preceding year.

2.4 Coming into Force

This Code comes into force when approved by the Board.

2.5 Amendments to this Code

This Code may be reviewed and amended from time to time by the Board on its own initiative or pursuant to a request by any party to whom this Code applies.

2.6 Exemptions

The Utility is to make all applications to the Board for an exemption with respect to compliance with any provision of this Code on behalf of the Utility or its Affiliates. Any such application will specify if the requested exemption is in respect of a particular transaction, series of transactions, for a specified period of time, or for a general exemption from a particular provision.

3 CORPORATE STRUCTURE AND DEGREE OF SEPARATION

Objectives

To separate the Utility's activities from Affiliate activities.

Protocols

3.1 Corporate Organization

EfficiencyOne shall maintain a corporate organizational structure which ensures that Regulated Activities are provided solely by the Utility.

3.2 Separate Operations

The business and affairs of the Utility shall be managed and conducted separately from the business and affairs of Affiliates, except as required to fulfill corporate governance, policy and strategic direction responsibilities of a corporate group of businesses as a whole. EfficiencyOne's financial statements shall be reported using a separate fund for Regulated Activities.

3.3 List of Affiliates

The Utility shall maintain a complete list of all Affiliates. The list will include the name and address of each Affiliate, a brief description of its activities and the names, addresses and telephone numbers of all of its officers. The list will be updated prior to executing any Services Agreements with new Affiliates and included in the EfficiencyOne Annual Compliance Report, defined in section 8.3 of this Code.

4 UTILITY MANAGEMENT AND RESOURCE SHARING

Objectives

To dedicate to the provision of Regulated Activities, in terms of quality and numbers, a management team capable of maintaining a superior level of performance, at the same time as Affiliates are expanding into other business activities.

Protocols

4.1 Utility Management

4.1.1 Knowledge

EfficiencyOne will maintain within the Utility a management team capable of delivering a superior level of performance.

4.2 Resource Sharing

The Principles outlined in Section 4.2 of the Code are to be interpreted, read, and applied in conjunction with EfficiencyOne's Internal Guidelines.

4.2.1 *Guiding Principle*

An individual shall not act both as a director, officer or member of a management team of EfficiencyOne and any other Affiliate (thereby acting in a dual capacity) unless the individual is able to carry out his/her responsibilities in a manner that preserves the form, spirit and intent of this Code. In particular, an individual:

- (a) shall not agree to act in a dual capacity if it could reasonably be considered to be detrimental to the interests of NSPI's ratepayers or customers of the Utility's Affiliates, in the circumstances; and
- (b) if acting in a dual capacity, shall abstain from engaging in any activity that could reasonably be considered to be detrimental to the interests of NSPI's ratepayers or customers of the Utility's Affiliates in the circumstances.

4.2.2 *Common Directors, Officers and Management*

EfficiencyOne may share directors, officers and management between the Utility and its Affiliates on a cost recovery basis using Fully Allocated Costs.

4.2.3 *Sharing of Employees*

EfficiencyOne may share employees between the Utility and its Affiliates using Fully Allocated Costs.

4.2.4 *Transferring or Secondment of Employees*

In relation to the Utility, EfficiencyOne may transfer or second employees to or from another Affiliate based on the sum of the employee's Salary Costs and Benefit Costs.

4.2.5 *Sharing of Assets, Equipment, and Other Overhead Costs*

The assets, equipment and other overhead costs of EfficiencyOne, used in relation to the Utility, shall be separated in ownership from the assets and equipment of other Affiliates. In relation to the Utility, EfficiencyOne may share ownership and may physically share office space, equipment, rights-of-way, other assets and other overhead costs with an Affiliate on a cost recovery basis.

4.2.6 *Shared Services Permitted*

Where the Utility determines it prudent in operating its business to do so, it may obtain Shared Services from, or provide Shared Services to, an Affiliate. The Utility shall periodically review the prudence of continuing Shared Services arrangements with a view to making any necessary adjustments to ensure that each Affiliate bears its proportionate share of costs.

4.2.7 *Pricing for Shared Services*

When the Utility acquires Shared Services from, or provides Shared Services to, an Affiliate, the cost of providing the services will be based on Fully Allocated Costs.

4.2.8 *Services Agreement*

The Utility shall enter into a Services Agreement with respect to any ongoing Shared Services it provides to, or acquires from, an Affiliate.

4.2.9 Occasional Services

Notwithstanding section 4.2.8 of this Code, the Utility may receive or provide Occasional Services from, or to, an Affiliate without entering into a Services Agreement.

4.2.10 Emergency Services Permitted

In the event that Emergency Circumstances trigger section 8.8(e) of this Code, the Utility may share services with an Affiliate using Fully Allocated Costs and share resources with an Affiliate on a cost recovery basis without a Services Agreement.

5 UTILITY FINANCING

Objectives

To maintain a capital structure for the Utility which is acceptable to the Board and consistent with applicable Board decisions.

Protocols

5.1 Capital Structure

Cash received under the DSM Fund may only be used for operations of the Utility with the exception of transfers to cover the costs of capital assets. The use of DSM funds is approved by the Board.

5.2 Cross-Subsidization

The Utility's capital structure will not be used to subsidize Affiliate activities. Affiliate risks or losses will not be borne by the Utility. The Utility shall, unless otherwise approved by the Board:

- (a) cause all credit facility, debt, and preferred stock financings to be solicited, negotiated, and acquired independently by the Utility; and
- (b) not agree to borrowings of its Affiliates to have recourse to the Utility or permit cross defaults or a cross-default event whereby the Utility will be in default of its borrowings due to the actions of its Affiliates.

5.3 Restrictions

The Utility shall not, without the prior approval of the Board:

- (a) provide loans to, guarantee the indebtedness of, or invest in securities of an Affiliate;
- (b) enter into any type of money pool arrangement that includes Affiliates; or
- (c) pledge financial support or cash flow for the benefit of an Affiliate.

The Utility shall, unless the Board authorizes otherwise:

- (d) maintain standalone credit ratings;

- (e) keep cash management systems separate from its Affiliates; and
- (f) make reasonable efforts to settle all Affiliate receivables and collectibles monthly.

5.4 Partnerships

EfficiencyOne's formation of partnerships with Affiliates shall not in any way allow avoidance of the restrictions on the Utility's financial assistance or support.

6 FAIR DEALING

Objectives

To avoid discrimination in the matter of pricing or in any other manner against non-Affiliated buyers of Regulated Activities.

To avoid subsidy by the Utility of the costs, revenues, or activities of Affiliates.

Protocols

6.1 Fair Dealing and Equal Access

6.1.1 *Access to Regulated Activities*

The Utility will provide access to Regulated Activities on a non-discriminatory basis and will not in respect of those activities, directly or indirectly provide, state, imply, or offer any preference or favoured treatments to its Affiliates or persons purchasing Affiliate goods and services.

6.1.2 *Affiliate Responsibilities*

Affiliates shall not condition or otherwise tie the receipt of Affiliate Services to a requirement that a customer must also deal with the Utility. Affiliates will not directly or indirectly provide, state, imply, or offer any preference or favoured treatments to customers who also deal with the Utility.

6.2 Degree of Separation

6.2.1 *Accounting Separation*

With regard to the Utility, EfficiencyOne shall ensure accounting separation from Affiliates and shall also maintain separate financial records and books of accounts.

6.2.2 *Separation of Information Services – Confidential Information*

Where the Utility shares Information Services with an Affiliate, all Confidential Information will be protected from unauthorized access by the Affiliate. Shared Information Services will be subject to information rights management protocols to prevent unauthorized entry into the electronic system of each party.

6.3 Services Agreement

The Utility shall enter into a Services Agreement for all Affiliate Services it acquires or provides.

6.4 Asymmetric Pricing

Except where pricing is otherwise specified in this Code or an exception has been explicitly obtained in accordance with section 6.11 of this Code:

- (a) the Utility will charge prices no less than the greater of its Fully Allocated Costs or Fair Market Value (“FMV”) for all goods, services, leases, asset transfers, or other exchanges of value (excepting those otherwise covered by this Code) provided to Affiliates.
- (b) the Utility shall not pay Affiliates for such goods and services prices greater than FMV. Where FMV cannot be evidenced, the Utility shall pay no more than the Affiliate’s Fully Allocated Costs. In no case should the Utility pay any amount that exceeds the Utility’s self-provisioning costs or the costs that the Utility can secure from other, third-party sources.

6.5 Determining Fair Market Value

6.5.1 Methodology

The Utility shall determine and document all FMV prices through the use, where practicable, of competitive tendering or quotes by a minimum of two alternative, non-affiliated qualified vendor offers. Otherwise, the Utility shall use the most direct alternative means of establishing FMV pricing, including without limitation, benchmarking studies, catalog pricing, replacement cost comparisons or recent market transactions.

6.5.2 Onus

The Utility shall bear the onus of demonstrating that the methodology or methodologies used in determining the FMV of the subject goods or services was appropriate in the circumstances.

6.6 Fully Allocated Costs

Where prices based on FMV cannot be determined through reasonably direct and substantially supported means, the Utility will document the inability to make such determination, and will charge to its Affiliates prices that reflect the Utility’s Fully Allocated Costs for the goods and services provided and vice versa. Fully Allocated Costs will be calculated based on the costing methodology outlined in EfficiencyOne’s Internal Guidelines.

6.7 Positive Time Reporting

The determination of the cost of personnel providing an Affiliate Service shall be based on positive time reporting that incorporates an explicit, appropriate designation of the beneficiary or group of beneficiaries of the services provided in each pay period. All costs should be directly charged to the clients of the services wherever possible. When direct charging is not possible, costs should next be allocated wherever possible using allocation factors based on cost drivers specifically applicable to the service provided. Only when no

other reasonable alternative exists should costs be allocated using general allocation factors not directly related to the services provided. Where budgets or estimates of such costs are used as an initial pricing basis, they must in all cases eventually be reconciled to actual time and other resources used.

6.8 Current Practice

The Utility shall make no changes in responsibility for the performance of any service regularly provided for or by an Affiliate (including, but not limited to, corporate support services), absent a prior analysis demonstrating that such change is the best available option for NSPI's ratepayers, in the circumstances.

6.9 Documenting Affiliate Transactions

The Utility shall maintain complete and detailed documentation of its procedures for accounting for and charging, assigning, and allocating the prices and costs of its transactions with Affiliates, in accordance with the Annual Compliance Report as defined in section 8.3 of this Code.

6.10 Annual Budgets

All regularly recurring services that the Utility provides to or receives from its Affiliates shall be subject to an annual budget to which both the service providers and recipients must concur in documents reflecting such agreement. Variances to such budgets will be tracked.

6.11 Exemptions

With the approval of the Board, the Utility may use a pricing protocol other than those described above.

6.12 Name and Logo

The name, logo and other identifying marks of the Utility are used pursuant to a Trade-Mark and Intellectual Property License Agreement (the "Agreement") with the Province of Nova Scotia and shall only be used by an Affiliate where express consent is provided by the Province in accordance with said Agreement.

6.13 Access to Shared and Occasional Services

The Utility is not required to provide non-Affiliates with equal access to Shared Services or Occasional Services.

7 CONFIDENTIALITY OF INFORMATION

Purpose

To ensure Confidential Information obtained in the course of the Utility's activities is protected in Affiliate transactions.

Protocols

7.1 No Release of Confidential Information

The Utility will not provide Confidential Information relating to NSPI's ratepayers to Affiliates or other persons without prior consent from the NSPI ratepayer, unless such confidential information may be disclosed to an Affiliate:

- (a) for the purpose of a court proceeding or a proceeding before a quasi-judicial body to which the NSPI customer is a party;
- (b) for the purpose of complying with a subpoena, warrant, or order issued or made by a court, person or body having jurisdiction to compel the production of information or with a rule of court that relates to the production of information;
- (c) to a municipal or provincial police service for the purpose of investigating an offence involving the NSPI customer, if the disclosure is not contrary to the express request of the NSPI customer;
- (d) by law or by an order of a government or agency having jurisdiction over the Utility;
or
- (e) pursuant to the *Personal Information Protection and Electronic Documents Act*, SC 2000, c 5.

7.2 Aggregated Confidential Information

The Utility may disclose Confidential Information when aggregated with the Confidential Information of other NSPI ratepayers in such a manner that an individual NSPI ratepayer's Confidential Information cannot be identified and in accordance with the *Personal Information Protection and Electronic Documents Act*, SC 2000, c 5.

8 DEMONSTRATING CODE COMPLIANCE

Purpose

To ensure that EfficiencyOne complies with the Code with a sufficient level of transparency.

To separately and fully account for the value of goods, services, financial and other support delivered to or from the Utility and its Affiliates.

Protocols

8.1 Compliance Officer

The Utility shall appoint a compliance officer (the "Compliance Officer"). The Utility shall ensure that the Compliance Officer is a member of the EfficiencyOne Executive Leadership Team and has adequate resources to fulfill his or her responsibilities.

8.2 Responsibilities of the Compliance Officer

The responsibilities of the Compliance Officer shall include:

- (a) providing advice and information to the Utility for the purpose of ensuring compliance with this Code;

- (b) monitoring and documenting compliance with the Code by EfficiencyOne, its directors, officers, employees, consultants, contractors and agents in relation to the Utility;
- (c) monitoring and documenting compliance with the Code by Affiliates in respect of interactions between the Utility and its Affiliates;
- (d) preparing an Annual Compliance Report containing the information required in section 8.3 of this Code;
- (e) receiving and investigating internal and external disputes, complaints and inquiries with respect to the application of, and alleged non-compliance with, the Code in accordance with section 10 of this Code;
- (f) recommending to the Utility measures required to address events of non-compliance with the Code; and
- (g) maintaining adequate records with respect to all aspects of the Compliance Officer's responsibility.

8.3 Annual Compliance Report

The Compliance Officer shall report annually to the Board the following information prepared in respect to the period of time covered by the Annual Compliance Report:

- (a) a detailed listing of all assets, services and products provided between the Utility and an Affiliate;
- (b) each item on the listing should indicate the price received or paid and, as appropriate, the relevant Fully Allocated Costs or market values;
- (c) where FMV is used, an explanation should be provided as to how the value was determined, including the comparative source for the value;
- (d) where cost allocations are involved, a description of the cost allocators and methods used to make the allocations should be included;
- (e) a summary of corporate services and the methodology for ensuring fair allocations of these costs;
- (f) a copy of the latest version of the documentation of inter-Affiliate costing pricing procedures required in section 6.9 of this Code;
- (g) a list of all employee transfers, temporary assignments and secondments between the Utility and its Affiliates during the year by level and job function;
- (h) for temporary employee assignments and secondments between the Utility and its Affiliates, the Utility will report employee hours and express them as a percentage of each employee's full time equivalent hours;
- (i) a list of corporate entities in which EfficiencyOne has any amount of ownership. For those entities that are Affiliates, as understood by this Code, the list will include the name and address of each Affiliate, a brief description of its activities and the names, addresses and telephone numbers of all of its officers;
- (j) the most recent version of EfficiencyOne's Internal Guidelines for implementing this Code; and
- (k) a summary list of any exemptions granted to this Code or exceptions utilized, including the exception for emergency services.

8.4 Compliance Records and Audit

The Utility shall be subject to external audits of Affiliate transactions and transfers, temporary assignments and secondments of employees between the Utility and its Affiliates from time to time as the Board determines to be appropriate. The auditor shall be subject to approval by the Board. Understanding that internal control remains an important measure, the Utility shall conduct an internal audit program encompassing an appropriate level of testing Affiliate transactions on an annual basis, except in years subject to an external audit by the UARB. Compliance with Internal Audit requirements will be confirmed through a certificate of compliance from the Utility in accordance with section 9.1 of this Code.

The records required to be maintained by the Compliance Officer pursuant to section 8.2 of this Code shall be retained for a period of at least six years.

8.5 Affiliate Records

All newly entered, renewed, extended, or otherwise altered or amended Services Agreements will contain provisions sufficient to require and assure that the Affiliate will make available all of its books and records (notwithstanding any agreement the Affiliate has with any third party) as may in the judgment of the Board be necessary to:

- (a) examine the market competitiveness of the terms and conditions of such Affiliate agreement with reference to any similar agreements the Affiliate has with third parties, or
- (b) verify that Affiliate agreements with the Utility are independent of and in no way linked to agreements between Affiliates and third parties in a manner that causes financial or other harm or loss to the Utility. Moreover, if executed by the Utility, no such commitment shall be considered binding, or effective in the absence of such provisions.

8.6 Internal Guidelines

The Utility shall submit to the Board annually, all internal Code of Conduct implementation guidance along with a summary of significant interpretations or judgments made by the Utility related to the Code during the year.

8.7 Board Powers

To monitor compliance, the Board at any time may review the records of the Utility and its Affiliates as the Board deems required in assuring compliance with any provisions of this Code and with the duty to deal at arm's-length with Affiliates.

8.8 Assessing Transactions

The Utility will take the following actions to establish that each of its transactions with Affiliates is demonstrably the best option from among those reasonably available at the time for NSPI's ratepayers, in the circumstances:

- (a) where the Utility decides to enter a transaction with an Affiliate, it shall simultaneously document efforts undertaken to identify commercially available alternatives, the alternatives identified, and a description of the basis for its decision to enter a transaction with an Affiliate;
- (b) this documentation shall contain a summary table or narrative that identifies all alternatives considered, lists each criterion considered material in deciding with whom to

- transact, compares each alternative under each such criterion, and explains the reasons for selecting an Affiliate;
- (c) the Utility's documentation shall contain summaries of all verbal communications substantially affecting its decision to transact with an Affiliate, which summaries shall be prepared by an identified representative of the Utility as soon as practicable following such communication;
 - (d) the documentation required to be maintained regarding Affiliate transactions shall be prepared by or under the direction of a manager of the Utility who is responsible for the costs that the transaction will cause the Utility to incur, and shall be accompanied, in all cases where transactions individually or in aggregate over any consecutive 12-month period exceed \$125,000, by the signature of EfficiencyOne's CEO, signifying the CEO's review and approval of the transaction decisions made and the sufficiency of the data gathering and analysis underlying them; and
 - (e) to the extent that Emergency Circumstances require the waiver of, or a delay in, performing or documenting any normal step in the data gathering, analysis, and decision process, those circumstances shall be described in a document that shall be signed by a responsible officer of the Utility, signifying the officer's verification that conditions were sufficient to warrant the suspension of normal steps or delay in documenting them.

8.9 Large Transactions

8.9.1 *Definition of Large Transactions*

Additional requirements shall apply to all "Large Transactions" between the Utility and its Affiliates, which consist of those that meet the following criteria:

- (a) One-time transactions with a value of \$300,000 or more;
- (b) Periodic, related transactions reasonably expected to reach in aggregate \$450,000 or more in any consecutive 12-month period;
- (c) Transactions with: (i) a duration of 24 months or greater, taken alone or in combination with related transactions, and (ii) with a value of \$150,000 or more; or
- (d) Loans or assignments of personnel between the Utility and its Affiliates and involving work in more than 6 months of any consecutive 12-month period, or where costs of all employees involved in related activities or projects are reasonably expected to exceed \$300,000.

8.9.2 *Additional Requirements for Large Transactions*

The Utility shall for Large Transactions:

- (a) Prepare an analysis of the costs of self-provisioning by the Utility, which shall specifically identify and exclude fixed costs of the Utility (i.e., those that the Utility will continue to bear during the term of the agreement);
- (b) Prepare a description of any solicitations of terms and conditions from third-party suppliers; and
- (c) Prepare a documented analysis that identifies: (i) the potential third-party suppliers from whom interest was solicited; (ii) the identities of any of them disqualified from submitting offers; (iii) the reasons for such disqualification; (iv) the number and identity of offers received; (v) a list of all criteria used to evaluate

the transaction and a description of the relative importance applied to each such criterion; (vi) a ranking of each bid received by cost and by each criterion considered; and (vii) a justification of the decision that addresses the significance of each decision criterion identified as relevant.

8.9.3 *Failure to Solicit Third-Party Offers for Large Transactions*

In the event that solicitation of third-party offers is not used for a Large Transaction, the Utility shall prepare a description of:

- (a) the justification for failing to use such solicitations;
- (b) a description of alternate means used to identify available commercial alternatives;
- (c) the criteria used to evaluate and compare those alternatives; and
- (d) a description of the process and reasons for choosing to transact with an Affiliate.

8.10 Third-Parties

In the event that the Utility contracts with an Affiliate who is acting in concert with a third-party (whether by partnership, joint venture, or otherwise), the Utility shall document its efforts to consider the propriety, possibility, advantages, and disadvantages of the Utility working similarly with a third-party as an alternative.

8.11 Internal Guidelines

Proper implementation of this Code requires detailed Internal Guidelines. The Utility shall prepare, maintain, review and update at least annually Internal Guidelines that fully comply with the Code's current provisions and that provide employees with guidance appropriate to ensure its full, timely, and proper implementation and compliance.

9 EMPLOYEE COMPLIANCE

Purpose

To ensure understanding of and compliance with this Code of Conduct.

Protocols

9.1 Communication of Code

The Utility shall:

- (a) ensure that its employees who perform work for and/or with Affiliates understand and agree to abide by this Code. The Utility will inform all its managers and employees directly involved in Affiliate activities of their expected behaviour relative to the Code and will undertake annual training in Code content and use;
- (b) require annual certifications by all employees having engagement in Affiliate transactions and their pricing and documentation that such employees understand and have complied with the requirements of the Code and Guidelines. The Utility shall also undertake management reviews of compliance sufficient to enable its CEO to certify to the Board annually in writing that all affected employees have complied with this requirement to the best of their knowledge, information, and belief; and

- (c) make the Code available on the Utility's website.

10 DISPUTES, COMPLAINTS AND INQUIRIES

Purpose

To ensure EfficiencyOne complies with the Code with a sufficient level of transparency.

Protocols

10.1 Filing with the Compliance Officer

Disputes, complaints, or inquiries from within the Utility or from external parties respecting the application of, or alleged non-compliance with, the Code shall be submitted in writing to the Compliance Officer and may be made confidentially. The identity of the party making the submission to the Compliance Officer shall be kept confidential by the Compliance Officer unless the party otherwise agrees.

10.2 Processing of Complaints

10.2.1 Compliance Officer Acknowledgment

The Compliance Officer shall acknowledge all disputes, complaints, or inquiries in writing within five working days of receipt.

10.2.2 Disposition

The Compliance Officer shall respond to the dispute, complaint, or inquiry within 21 working days of its receipt. The response shall include a description of the dispute, complaint, or inquiry and the initial response of the Utility to the issues identified in the submission. The Utility's final disposition of the dispute, complaint, or inquiry shall be completed as expeditiously as possible in the circumstances, and in any event within 60 days of receipt of the dispute, complaint, or inquiry, except where the party making the submission otherwise agrees.

10.3 Referral to the Board

In the event:

- (a) the Utility fails to abide by the process identified in section 10.2 of this Code;
- (b) the Utility or a party with a dispute, complaint or inquiry, is unsatisfied with the resolution of a dispute, complaint or inquiry following the conclusion of the section 10.2 process; or
- (c) of an urgent and significant matter, where there is a reasonable expectation that a party's position may be prejudiced by allowing the process contemplated by section 10.2 to operate,

The Utility (subject to the confidentiality provisions of section 7 of this Code) or a party with a dispute, complaint, or inquiry, may refer the matter to the Board for consideration. A referral to the Board must be in writing and shall describe the dispute, complaint, or inquiry and must include the response, if any, of the Utility to the submission.