

Competition Bureau Strengthens Competition in Ontario's Water Heater Industry

Resolutions require Reliance to pay \$5M penalty and put an end to anti-competitive conduct by Reliance and Direct Energy

November 6, 2014 — OTTAWA, ON — Competition Bureau

The Competition Bureau has reached resolutions with Reliance Comfort Limited Partnership (Reliance) and EnerCare Inc., the company that acquired Direct Energy Marketing Limited's Home and Small Commercial Services (Direct Energy) business in October, which strengthen competition and consumer choice in Ontario's residential water heater industry.

The Bureau filed applications with the Competition Tribunal against Reliance and Direct Energy in 2012 alleging that they had implemented anti-competitive water heater return policies and procedures that were aimed at preventing consumers from switching to competitors. As a result of these anti-competitive practices, many customers had little choice but to continue their rental agreements even if they wanted to purchase a new water heater or switch to another rental provider. This is an especially important issue for consumers who wish to purchase new water heaters, instead of continuing to pay rental fees, as there can be substantial savings.

Reliance Pays \$5 Million Administrative Monetary Penalty

Under the terms of a consent agreement registered today with the Tribunal, Reliance will pay an administrative monetary penalty (AMP) of \$5 million and contribute \$500,000 to the Bureau's investigative costs. Reliance must also take certain steps to make it easier for customers to terminate their rental agreements and return their water heaters to Reliance. The consent agreement will be available on the Competition Tribunal's website shortly.

Commitments from EnerCare

After learning of EnerCare's plans to acquire Direct Energy's water heater rental business in Ontario, the Bureau approached EnerCare in order to reach a resolution that would put an end to Direct Energy's anti-competitive policies and practices following the completion of the transaction. EnerCare was not the subject of the Bureau's application regarding Direct Energy's practices and has not engaged in any anti-competitive behaviour. However, given its acquisition of Direct Energy's water heater rental business, the Bureau has obtained written commitments from EnerCare that put an end to Direct Energy's anti-competitive behaviours.

While Reliance and EnerCare have cooperated with the Bureau, the Bureau's litigation against Direct Energy is continuing before the Tribunal. The Bureau is seeking an order that includes, among other things, an AMP of \$15 million. The hearing is currently scheduled to begin on March 2, 2015.

Further information about the resolutions with Reliance and EnerCare is available in the [Fact Sheet](#).

Quote

"Today's announcement will promote improved competition in the water heater industry in Ontario by ensuring that consumers can more easily purchase a new water heater or switch to a different rental provider. I am pleased that Reliance and EnerCare have agreed to put an end to the restrictive practices. In particular, we welcome the cooperative approach EnerCare immediately adopted to resolve our concerns. These agreements are a good demonstration of the benefits to the market place when businesses work with the Bureau to resolve competition concerns."

John Pecman,
Commissioner of Competition