



EB-2012-0283

IN THE MATTER OF the *Ontario Energy Board Act, 1998*,
S.O. 1998, c. 15, (Schedule B) (the “Act”);

AND IN THE MATTER OF a Notice of Intention to Make an
Order for Compliance and an Administrative Penalty against
Onit Energy Ltd., Licence Number ER-2008-0008.

**NOTICE OF INTENTION TO MAKE AN ORDER FOR COMPLIANCE AND TO
IMPOSE AN ADMINISTRATIVE PENALTY UNDER s. 112.3 and s. 112.5 of the
*ONTARIO ENERGY BOARD ACT, 1998***

The Ontario Energy Board (the “Board”), on its own motion under section 112.2 of the Act, intends to make an Order under sections 112.3 and 112.5 of the Act requiring Onit Energy Ltd. (“Onit Energy”) to comply with a number of enforceable provisions as defined in section 3 of the Act and to pay an administrative penalty in the amount of \$20,000 for breaches of enforceable provisions.

ALLEGATIONS OF NON COMPLIANCE

It is alleged that Onit Energy has contravened certain sections of Ontario Regulation 389/10, section 12 of the *Energy Consumer Protection Act, 2010* (the “ECPA”), section 3 of Ontario Regulation 90/99 and section 6.1 of the Electricity Retailer Code of Conduct.

PARTICULARS

The particulars in support of the allegations set out in this Notice are as follows:

Contract Content Requirements for New Contracts

A standard form electricity contract was requested and provided by Onit Energy during the inspection. That standard form electricity contract was reviewed. Onit Energy contravened the following requirements in relation to requirements for electricity contracts:

1. The contract fails to state the licence number of Onit Energy; contrary to section 12 of the ECPA and section 7(1)(2) of Ontario Regulation 389/10.
2. The contract fails to state that the consumer has the right under the Act to cancel the contract without cost or penalty up to 10 days after the consumer acknowledges receipt or is deemed to acknowledge receipt of a text-based copy of the contract; contrary to section 12 of the ECPA and section 7(1)(8) of Ontario Regulation 389/10.
3. The contract fails to state that if the consumer cancels the contract within that 10-day period, the consumer is entitled to a full refund of all amounts paid under the contract; contrary to section 12 of the ECPA and section 7(1)(9) of Ontario Regulation 389/10.
4. The contract fails to contain a statement that the consumer may cancel the contract without cost or penalty up to 30 days after receiving the first bill under the contract; contrary to section 12 of the ECPA and section 7(1)(10) of Ontario Regulation 389/10.
5. The contract fails to contain a statement that “nothing in the contract negates or varies the consumer’s rights to cancel the contract under and in accordance with the Act and this Part”; contrary to section 12 of the ECPA and section 7(1)(11) of Ontario Regulation 389/10.

6. The contract fails to state that if the consumer permanently moves out of the premises to which the electricity is provided under the contract, the consumer may, without cost or penalty, cancel the contract; contrary to section 12 of the ECPA and section 7(1)(12) of Ontario Regulation 389/10.
7. The contract fails to include the applicable conditions/rights under section 21(a), (b), and (e) of Ontario Regulation 389/10; contrary to section 12 of the ECPA and section 7(1)(13) of Ontario Regulation 389/10.

Entering into Contracts without filing a Certificate of Compliance

8. Onit Energy entered into 4 electricity contracts with low-volume consumers in January of 2011 without filing a Certificate of Compliance with the Board; contrary to section 3 of Ontario Regulation 90/99 and section 6.1 of the Electricity Retailer Code of Conduct.

THEREFORE TAKE NOTICE that Onit Energy may request, within fifteen days after receiving this Notice, that the Board hold a hearing on these matters. If no request for hearing is made within this time period, the Board may proceed to make an Order that Onit Energy comply with any of the enforceable provisions listed in this Notice and that Onit Energy pay an administrative penalty.

FURTHER TAKE NOTICE that if a hearing is requested, the Board is not bound by the above noted penalty and has discretion, upon finding a contravention(s) of the Act, to make any order it deems appropriate under sections 112.3, 112.4 and/or 112.5 of the Act. Onit Energy is entitled to be present at the hearing with or without counsel and to adduce evidence and make submissions. Should Onit Energy fail to attend, the hearing may be conducted in its absence and Onit Energy will not be entitled to any further notice in the proceeding.

In order to respond to this Notice and request a hearing, Onit Energy must file 3 copies of this request with the office of the Board Secretary at the following address:

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, Ontario
M4P 1E4
Attention: Board Secretary
Email: Boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273
Fax: 416-440-7656

If a hearing is requested it will proceed before a Panel of the Board, at the offices of the Ontario Energy Board, 2300 Yonge Street, Toronto, Ontario, on a date to be set by the Board.

Dated at Toronto, July 10, 2012

ONTARIO ENERGY BOARD

Original signed by

Rosemarie T. Leclair
Chair and CEO