



EB-2012-0282

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 morEnergy Savings Corp. & Blue Power Distributed Energy Corp. (collectively, "morEnergy") Licence Numbers GM-2010-0336 and ER-2010-0335.

NOTICE OF INTENTION TO MAKE AN ORDER FOR COMPLIANCE AND TO IMPOSE AN ADMINISTRATIVE PENALTY UNDER s. 112.3 and 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 morEnergy 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 \$90,000 for breaches of enforceable provisions.

ALLEGATIONS OF NON COMPLIANCE

It is alleged that morEnergy has contravened sections of Ontario Regulation 389/10, sections of Ontario Regulation 90/99, the Electricity Retailer Code of Conduct and the Code of Conduct for Gas Marketers (the "Codes") and the terms of the Assurance of Voluntary Compliance accepted by the Board in EB-2011-0313 dated September 12, 2011.

PARTICULARS

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

1. Training Material

- 1.1 The training material used by morEnergy for training prospective salespersons was reviewed. The training material does not include adequate and accurate material in the following areas as they pertain to low volume consumers:
- (a) Information about verification contrary to section 7 of Ontario Regulation 90/99 and sections 5.2 (a) and 5.2 (b)(viii) of the Codes and section 1(b) of the Assurance of Voluntary Compliance filed with the Board on September 12, 2011 in EB 2011-0313; and
 - (b) Information relating to renewals and extensions contrary to section 7 of Ontario Regulation 90/99 and sections 5.2 (a) and 5.2 (b)(x) of the Codes.

2. Contract Content Requirements for Internet Contracts

- 2.1 The standard form internet contracts for gas and electricity being used by morEnergy were reviewed. morEnergy confirmed that all internet contracts used the same format and content as the standard form contract. The following contraventions were noted:
- (a) The contract fails to state that if the consumer cancels the contract within ten days after the consumer acknowledges receipt or is deemed to acknowledge receipt of a text based copy of the contract the consumer is entitled to a full refund of all amounts paid under the contract contrary to section 7(1)(9) of Ontario Regulation 389/10; and
 - (b) 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 7(1)(11) of Ontario Regulation 389/10 and section 10 of the Assurance of Voluntary Compliance filed with the Board on September 12, 2011 in EB-2011-0313.

3. Inputting Consumer Data before Commencing a Transaction

UCI (Utility Choice International), now Invado International, is a third party company which facilitates the internet agreements for morEnergy through multi-level marketing. The website of UCI was inspected.

- 3.1 Consumers entering the third party's website are not provided with the terms and conditions of available contracts, the disclosure statement applicable to each form of contract and a link to the Board's website prior to entering their first name, last name and account number, which are then automatically entered onto an enrolment form for the purpose of the contract with the supplier. This is contrary to section 9(d) of the Regulation 389/10 which states that the website provides the terms and conditions of available contracts, the disclosure statement applicable to each form of contract and a link to the Board's website, without requiring the consumer to commence a transaction.

4. Board Approved Disclosure Statement

- 4.1 The disclosure statement for both gas and electricity, as presented on the web and as received by email, has been truncated and therefore sections of the statement are unreadable at the top and bottom of the disclosure statement, including the name of the document, the statement "This disclosure statement is also available on the Ontario Energy Board's website ([click here](#)) in a large-print version and in the following languages" and country flags representing the available languages. The disclosure statement is therefore not presented in the form or manner required, contrary to section 8(1) of Regulation 389/10 and section 4.1 of the Codes.

THEREFORE TAKE NOTICE that morEnergy 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 morEnergy comply with any of the enforceable provisions listed in this Notice, and that morEnergy pay an administrative penalty. Further particulars in support of the allegations set out in this Notice are provided in the disclosure.

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 s. 112.3, 112.4 and/or 112.5 of the Act. morEnergy is entitled to be present at the hearing with or without counsel and to adduce evidence and make submissions. Should morEnergy fail to attend, the hearing may be conducted in its absence and morEnergy will not be entitled to any further notice in the proceeding.

In order to respond to this Notice and request a hearing, morEnergy 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 ON 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 26, 2012

ONTARIO ENERGY BOARD

Original Signed By

Rosemarie Leclair
Chair, Ontario Energy Board