



EB-2012-0282
EB-2012-0359

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

AND IN THE MATTER OF a Notice of Intention to Make an
Order for Compliance and an Administrative Penalty against
morEnergy Savings Corp. and Blue Power Distributed Energy
Corp., Licence Numbers GM-2010-0336 and ER-2010-0335;

AND IN THE MATTER OF a Notice of Intention to Make an
Order for Compliance, Suspension or Revocation, and an
Administrative Penalty, against morEnergy Savings Corp. and
Blue Power Distributed Energy Corp., Licence Numbers GM-
2010-0336 and ER-2010-0335.

NOTICE OF CONSOLIDATION OF PROCEEDINGS
NOTICE OF HEARING
AND
PROCEDURAL ORDER NO. 1

EB-2012-0282

On July 26, 2012 the Ontario Energy Board, on its own motion under section 112.2 of the *Ontario Energy Board Act, 1998* (the "Act"), issued a Notice of Intention to Make an Order under sections 112.3 and 112.5 of the Act (the "July Notice") against morEnergy Savings Corporation and Blue Power Distributed Energy Corporation (referred to collectively as "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. The Board assigned file number EB-2012-0282 to this matter.

As set out in the July Notice, it is alleged that morEnergy has contravened sections of

Ontario Regulation 398/10 (General) made under the *Energy Consumer Protection Act, 2010* (the “ECPA”), sections of Ontario Regulation 90/99 (Licence Requirements – Electricity Retailers and Gas Marketers) made under the Act, sections of the Electricity Retailer Code of Conduct and the Code of Conduct for Gas Marketers (collectively, the “Codes of Conduct”), and the terms of the Assurance of Voluntary Compliance accepted by the Board in EB-2011-0313 dated September 12, 2011. Particulars in support of these allegations are set out in the July Notice.

By way of letter dated August 3, 2012, morEnergy requested that the Board hold a hearing in this matter.

EB-2012-0359

On December 19, 2012 the Board, on its own motion under section 112.2 of the Act, issued a Notice of Intention to Make an Order or orders under sections 112.3, 112.4 and 112.5 of the Act (the “December Notice”) against morEnergy as follows: (a) an Order to comply with a number of enforceable provisions; (b) an order declaring certain contracts void or, in the alternative, an order requiring the verification of certain contracts, failing which they will be declared void; (c) an order to pay restitution to certain consumers; (d) an order revoking or suspending morEnergy’s electricity retailer and gas marketer licences; and (e) an order to pay an administrative penalty in the amount of \$360,000 for breaches of enforceable provisions. The Board assigned file number EB-2012-0359 to this matter.

As set out in the December Notice, it is alleged that morEnergy has contravened sections of the ECPA, sections of Ontario Regulation 398/10 (General) made under the ECPA and sections of the Codes of Conduct. Particulars in support of these allegations are set out in the December Notice.

On December 19, 2012, the Board also issued an Interim Order for Compliance under section 112.3 of the Act ordering morEnergy to cease door-to-door sales activities and to take or refrain from taking certain other actions.

By way of letter dated January 2, 2013, morEnergy requested that the Board hold a hearing in this matter.

Consolidation of Proceedings and Parties

The Board has determined that it will combine proceedings EB-2012-0282 and EB-2012-0359, and will hear them at the same time. The Board will proceed by way of oral hearing.

The parties to the combined proceeding are morEnergy and the members of Board staff (assisted by external counsel) assigned to bring these matters forward (the “Enforcement Team”).

Disclosure and Motions

Rule 16 of the Board’s Rules of Practice and Procedure for Enforcement Proceedings (the “Enforcement Rules”) set out provisions regarding the disclosure of documents in enforcement proceedings. The Board will require the parties to make disclosure to one another in accordance with Rules 16.02 and 16.03 of the Enforcement Rules as set out below, to the extent that they have not already done so. As set out in Rule 16.05 of the Enforcement Rules, a document that is not disclosed as required under the Enforcement Rules shall not be introduced as evidence in this proceeding except with leave of the Board.

The Board will make provision for a Motions Day, in the event that one should be required.

The Board considers it necessary to make provision for the following procedural matters related to this proceeding. The Board may issue further procedural orders from time to time.

THE BOARD ORDERS THAT:

1. To the extent that it has not already done so, the Enforcement Team shall, on or before **April 19, 2013**, serve on morEnergy any document in the possession or control of the Enforcement Team that is relevant to a response made, proposed to be made, or that can reasonably be expected to be made by morEnergy in respect of the matters at issue in

this proceeding.

2. A Motions Day, if required, will take place in the Board's North Hearing Room on **May 13, 2013** starting at 9:30 a.m. If a party to this proceeding wishes to file a motion, it shall file a notice of motion and supporting documents (the "Motion Record") with the Board, and serve the Motion Record on the other party, on or before **April 29, 2013**. If the other party wishes to file materials in response to a Motion Record, the responding party shall file responding materials with the Board, and serve those materials on the moving party, on or before **May 6, 2013**. If neither party files a Motion Record, the Motions Day will be cancelled.
3. To the extent that it has not already done so under paragraph 1 or otherwise, the Enforcement Team shall, on or before **June 3, 2013**, serve the following on morEnergy:
 - (a) a copy of every document that the Enforcement Team intends to produce or enter into evidence in this proceeding; and
 - (b) a list of the witnesses that the Enforcement Team intends to call in this proceeding, together with a witness statement or a summary of the anticipated oral evidence of each witness.
4. morEnergy shall, on or before **June 10, 2013**, serve the following on the Enforcement Team:
 - (a) a copy of every document that morEnergy intends to produce or enter into evidence in this proceeding; and
 - (b) a list of the witnesses that morEnergy intends to call in this proceeding, together with a witness statement or a summary of the anticipated oral evidence of each witness.

All filings to the Board must quote file number EB-2012-0282/EB-2012-0359, be made through the Board's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.ontarioenergyboard.ca/OEB/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do

not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All filings should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

ADDRESS OF THE BOARD

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto ON M4P1E4
Attention: Board Secretary

Tel: 1-877-632-2727 (toll free)
Fax: 416-440-7656
E-mail: Boardsec@ontarioenergyboard.ca

ISSUED at Toronto, April 5, 2013
ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary