



EB-2009-0117

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 an Administrative Penalty against Direct Energy Marketing Limited.

NOTICE OF INTENTION TO MAKE AN ORDER FOR AN ADMINISTRATIVE PENALTY UNDER s. 112.5 of the *Ontario Energy Board Act, 1998*

The Ontario Energy Board (the "Board"), on its own motion, intends to make an Order under subsection 112.5 of the *Ontario Energy Board Act, 1998* (the "Act") requiring Direct Energy Marketing Limited ("DE") to pay an administrative penalty in the amount of \$15,000 for contravening an enforceable provision of the Act and the Code of Conduct for Gas Marketers.

PARTICULAR

The particular of non-compliance is as follows:

1. On March 20, 2009 the Canadian Broadcasting Corporation aired its Marketplace program which highlighted the conduct of door-to-door sales agents of electricity retailers and gas marketers. A DE door-to-door agent is featured making a false, misleading or deceptive statement to a consumer. DE has therefore contravened section 88.4(2) of the Act, in that it has engaged in an unfair practice as defined in section 2 of Ontario Regulation 200/02. DE has also contravened section 2.1 of the Code of Conduct for Gas Marketers. More specifically a DE sales agent with the

initials S.R, employed by DE from October 27, 2007 to March 8, 2009, is shown making the following false, misleading or deceptive statement: to a consumer:

- "now what the protection actually does is it keeps you guys at one price so whenever you guys are using your natural gas, like in the winter time, you guys are actually going to less than what the actual market price is."

THEREFORE TAKE NOTICE that DE 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 DE pay an administrative penalty in the amount of \$15,000 pursuant to s. 112.5 of the Act.

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

In order to respond to this Notice and request a hearing, DE must file 6 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@oeb.gov.on.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, April 23, 2009

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary