



EB-2009-0364

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

AND IN THE MATTER OF an application under section 60
of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15,
Schedule B to renew Universal Energy Corporation's gas
marketer licence.

PROCEDURAL ORDER No. 1

Universal Energy Corporation ("Universal") filed an application with the Ontario Energy Board (the "Board"), received on October 9, 2009, under section 60 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B. Additional information was filed on October 30, 2009. The Board has assigned File Number EB-2009-0364 to this application.

The Board issued a Notice of Application and Hearing on November 18, 2009 calling for submissions from interested parties. A customer of Universal filed a letter of comment on November 30, 2009, objecting to a written hearing process. Board staff filed a submission on December 2, 2009 seeking the inclusion of an interrogatory process for this application. The applicant filed a response to the letter and Board staff's submission on December 9, 2009.

The Board is not persuaded by the customer letter that an oral hearing is necessary. The Board will proceed by way of written hearing at this time, but as in any proceeding, maintains control over its own process, and may change its procedure in order to obtain the information it needs to make a decision in the application.

In its submission, Board staff expressed concern over several infractions of the

Ontario Energy Board Act, 1998 and the Code of Conduct for Gas Marketers by Universal. Staff also noted that the licence application form for gas marketers was revised recently to require an applicant to provide additional information beyond what was required in the application form completed by Universal. Staff submitted that an interrogatory process should be provided for in this proceeding.

Universal / Just Energy Inc., in its reply submission, argued that sufficient information existed on the record, and that its submission answered the concerns raised in the staff submission.

I find that the further information obtained through an interrogatory process would be of assistance in making a decision on this application.

Universal/Just Energy Inc. submitted that it would be unfair to extend the application process without good cause, in departure from the Board's past practice and the applicant's reasonable expectations of reliance on that past practice. As stated above, the Board has control over its own procedure, and can adjust its procedure to ensure that it has sufficient information on the record to make a reasoned and fair decision in the public interest. I do not agree that the application and the submission filed by the applicant provide all the information necessary to render a decision, in circumstances where the applicant marketer has recently been subject to administrative penalties. Consumers must be able to have confidence in the natural gas market, and the Board exercises an important supervisory role over gas marketers through its licensing regime. It must have full information to perform that role effectively.

Universal/Just Energy Inc. also submitted that the Board should not be concerned regarding Universal's previous history of compliance infractions and customer complaints as Just Energy has assumed the customer care and contract management obligations of Universal since the date of the last infraction. I recognize that Universal is now under new management. The information provided in the applicant's submission about Just Energy Inc. and its arrangements regarding the management of Universal's business is helpful and will be considered in making a final disposition in this application. However, Just Energy Inc. has chosen to acquire a gas marketer that has been subject to administrative penalties twice within the last year, and must expect that an application for renewal of that gas marketer licence will be subject to particular scrutiny by the Board.

The gas marketer licence of Universal will expire on February 2, 2010. The Board has the power to make interim orders pending the disposition of a matter before it, and may consider such an order as this deadline approaches.

Accordingly, the Board considers it necessary to make provision for the following procedural matters. Please note that this Procedural Order may be amended, and further procedural orders may be issued from time to time.

THE BOARD ORDERS THAT:

1. Interested parties who wish to receive information and material from Universal that is in addition to information filed by Universal with the Board, and that is relevant to the hearing, shall request it by written interrogatories filed with the Board and delivered to Universal on or before **January 8, 2010**.
2. Universal shall file with the Board complete responses to the interrogatories and deliver them to interested parties no later than **January 26, 2010**.

All filings to the Board must quote the file number, EB-2009-0364, be made through the Board's web portal at www.errr.oeb.gov.on.ca, 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. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.oeb.gov.on.ca. If the web portal is not available you may email your document to the address below. Those who do not have internet access are required to submit all filings on a CD or diskette in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications 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.

DATED at Toronto, December 18, 2009.

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

Addresses

The Board

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