



EB-2010-0221

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, Suspension and an Administrative
Penalty against Summitt Energy Management Inc.

NOTICE OF HEARING AND PROCEDURAL ORDER NO. 2

On June 17, 2010 the Ontario Energy Board (the "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 subsection 112.3, 112.4 and 112.5 of the Act (the "Notice") against Summitt Energy Management Inc. ("Summitt"). The Notice informed Summitt that the Board intended to make an Order requiring Summitt to comply with a number of enforceable provisions as defined in section 112.1 of the Act, to pay an administrative penalty in the amount of \$495,000 for breaches of enforceable provisions, and that Summitt's licence would be suspended until such time as Summitt has satisfied any terms and conditions as may be ordered by the Board.

Also on June 17, 2010 the Board issued an Interim Order under section 112.3 of the Act requiring Summitt to comply with a number of enforceable provisions as defined in section 112.1 of the Act.

The allegations of non-compliance set out in the Notice are described as follows:

1. Summitt has contravened sections 88.4(2)(c) and 88.4(3)(c) of the Act through the actions of five of its sales agents in twenty-eight instances who engaged in unfair practices as defined in section 2 of Ontario Regulation 200/02, by making false, misleading or deceptive statements to consumers as detailed in the Notice.

2. Summitt has contravened sections 2.1 of the Code of Conduct for Gas Marketers and the Electricity Retailers Code of Conduct (the “Codes”) through the actions of its sales agents who engaged in unfair marketing practices as defined in section 2.1 of the Codes as detailed in the Notice.
3. Summitt has also contravened section 88.9 (1) of the Act by failing to deliver a written copy of the contract to the consumer within the time prescribed by regulation in fourteen instances as detailed in the Notice. Regulation 200/02 provides, at section 3, that a written copy of the contract shall be delivered to the consumer within forty days after signing the contract.

The particular allegations for each instance described above are set out in the Notice.

The Notice stated that Summitt may make a request, within fifteen days after receiving the Notice, requiring the Board to hold a hearing on these matters. By way of letter dated June 25, 2010 Summitt requested that the Board grant an extension of time for Summitt to elect whether or not to request a hearing.

The Board issued Procedural Order No. 1 on June 28, 2010 granting an extension of time to request a hearing from July 2, 2010 to July 9, 2010. Summitt filed a letter with the Board on July 8, 2010 setting out its request requiring the Board to hold a hearing on this matter.

The Board has determined that it will proceed with this matter by way of oral hearing. Summitt is entitled to be present at the hearing with or without counsel and to adduce evidence and make submissions. Should Summitt fail to attend, the hearing may be conducted in its absence and Summitt will not be entitled to any further notice in the proceeding.

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

THE BOARD ORDERS THAT:

1. An oral hearing will commence in the Board’s Hearing room the week of August 23, 2010 at 2300 Yonge Street, 25th Floor, Toronto, at 9:30 am.

2. Any filings to the Board must quote file number EB-2010-0221, 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 in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

3. 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.

Attention: Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Filings : www.errr.oeb.gov.on.ca
E-mail: Boardsec@oeb.gov.on.ca

Tel: 1-888-632-6273 (toll free)
Fax: 416-440-7656

ISSUED at Toronto, July 9, 2010
ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

