

August 18th, 2010

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

Dear Ms. Walli,

**Re: Direct Energy Marketing Limited – Electricity Retailer Licence, ER-2005-0226
Renewal Application - EB-2010-0045**

Please find enclosed Direct Energy's response to OEB Board staff submission dated August 4th concerning Direct Energy's electricity retailer license renewal application. We would like to take this opportunity to respond to Board staff's concerns and proposed license conditions.

In their submission, Board staff outline a range of concerns in relation to contract cancellations and renewals based on the review of a sample of customer complaints from 2009. Board staff indicates that contract management issues appear to be systemic in nature and have continued despite the implementation of various initiatives undertaken by Direct Energy to address them. Board staff further submits that whatever measures were implemented by Direct Energy have not been successful and the problems remain.

Direct Energy contends that the number of complaints received by Board staff is not strong evidence of systemic contract management issues. In 2009, Direct Energy's total complaints as a percentage of customer base were less than a fraction of a percent at 0.031% for electricity and 0.021% for gas. The percentage of contract management issues as a percentage of customer base is substantially lower than these already low figures. It is Direct Energy's view that it is unreasonable to view these issues as systemic if only fractions of 1 percent of customers are affected by these issues.

We note that the Board staff's sole argument in support of a recommendation to impose these conditions on Direct Energy's license appears to be that "despite Direct Energy's evidence that it has made several organizational and process changes to address the issues the effectiveness of these changes *is not evident*." [emphasis added] However, the only evidence Board staff have adduced for concluding that the effectiveness of Direct Energy's efforts "is not evident" is the fact that staff reviewed a selection of complaints and identified that some of them involve contract management issues.

Having identified that there exists a non-zero number of contract management complaints against Direct Energy, Board staff have concluded that:

- (i) Direct Energy's recent and ongoing efforts have had no effect; and
- (ii) this non-zero number of complaints is so significant as to make it necessary to impose onerous conditions on Direct Energy's license.

Direct Energy respectfully submits that it is not reasonable to come to the above conclusions based on the evidence referred to in the Board staff submission unless it is assumed that the acceptable number of contract management complaints is less than Direct Energy's overall level of contract management complaints. In our view, Board staff has not demonstrated that Direct Energy's contract management complaints are above this (unstated) critical threshold. They have simply demonstrated that Direct Energy's complaint level is not zero. In our view, respectfully submitted, it is not reasonable to impose conditions on Direct Energy's license on this basis.

While the overall complaint volume remains low, Direct Energy does recognize the volume of OEB complaints did increase in 2009 however Direct Energy believes that process issues are not the primary driver. Rather, Direct Energy believes the increase in complaints can be largely attributed to market factors such as a significant increase in the Global Adjustment and a steep decline in the gas commodity prices in 2009. It is reasonable to expect that customers will evaluate their contract and attempt to cancel when the price they are paying for energy is higher than the posted regulated rates. In a majority of cases, customers who wish to exit their contracts will have to pay liquidated damages. This requirement may lead to customer dissatisfaction and eventually an escalated complaint.

While market factors are beyond our control, Direct Energy has implemented numerous initiatives to address issues within our control in an effort to reduce complaint volumes. No less than 12 distinct initiatives were launched since December 2008 including:

1. Monthly Complaint Root Cause Analysis
2. Data Management Audit Reports
3. Enhanced Renewal Processing & Audits
4. On-going Call Centre & Back Office Staff Training
5. Increased The Clarity of Information and Customer Options in the Renewal Package
6. Online Call & Contract Request Fulfillment
7. Future Cancellation Process
8. Documents Receipt Process Improvements
9. Liquidated Damages Payment Processing
10. Senior Citizen Cancellation Policy
11. Return Mail Process Improvements
12. Document Retention Process

This list of initiatives has helped achieve the very low ratios of total complaints to total customer numbers described above and demonstrate that Direct Energy is committed to addressing the root cause of complaints (including addressing any process issues involved) and resolving complaints in a timely manner. We have made a substantial investment over the past two years to reduce the number of process issues and improve the level of customer service overall. While Direct Energy strives to reduce the number of complaints and in particular, contract management issues, we respectfully submit that the complaint volume is not substantial. With the size of DE's customer base, the unpredictable nature of commodity prices and the large increases in the Global Adjustment charges customers have been faced with, Board Staff should expect a certain level of complaints regardless of the initiatives implemented by Direct Energy to address process issues.



Moreover, and in closing, Direct Energy does not believe the license conditions are necessary as Direct Energy has and continues to work with Board staff to address any ongoing concerns with Direct Energy's processes or procedures, through the usual Compliance staff forum. This forum is more appropriate as it allows Direct Energy the ability to address these concerns directly, assess whether any issues were in fact the cause and ensure any required changes are implemented, in consultation with appropriate Board staff.

For the reasons outlined above, Direct Energy respectfully requests that the Board not adopt Board staff's proposed conditions.

Should you have any questions, please do not hesitate to contact me at 403 290 6944.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Chad Painchaud", written over a faint rectangular box.

Chad Painchaud
Manager, Compliance
Direct Energy