



EB-2010-0236
EB-2010-0237

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 Energhx
Green Energy Corporation's electricity retailer licence.

AND IN THE MATTER OF an application under
section 50 of the *Ontario Energy Board Act*, 1998,
S.O. 1998, c. 15, Schedule B to renew Energhx
Green Energy Corporation's gas marketer licence;

DECISION AND ORDER

Energhx Green Energy Corporation, carrying on business as Energhx Consulting ("Energhx") filed an application with the Ontario Energy Board, received on June 8, 2010, under section 60 of the *Ontario Energy Board Act*, 1998 (the "Act") to renew its electricity retailer licence. Energhx also filed an application under section 50 of the Act to renew its gas marketer licence. The Board has assigned the applications file numbers EB-2010-0236 and EB-2010-0237, respectively.

The Board issued a Notice of Application and Written Hearing on September 7, 2010. Only Board staff participated in the hearing. The record for these applications closed on November 24, 2010.

The *Energy Consumer Protection Act*, 2010 ("ECPA") came into force on January 1, 2011.

On January 28, 2011 the Board re-opened the record and extended the terms of the licences that are the subject of the renewal applications to March 31, 2011, to provide Energhx with an opportunity to submit evidence of compliance with the

current legislative and regulatory requirements. Energhx filed the evidence on February 2, 2011.

Following the enactment of the ECPA, the Board commenced a series of compliance inspections of those electricity retailers and gas marketers that filed a Certificate of Compliance with the Board. The inspection included Energhx.

To allow time to complete the compliance inspections and the related review process, the terms of the licences with respect to Energhx's renewal applications were extended to October 31, 2011. On August 25, 2011 the Board issued a Notice of Intention to Make an Order for Compliance, Suspension and to Impose an Administrative Penalty against Energhx under the Act for breaches of enforceable provisions as defined in section 3 of the Act. In a letter dated September 9, 2011, Energhx requested a hearing regarding the Notice.

The hearing requested by Energhx is currently scheduled for November 29, 2011. Accordingly, a final decision on these applications has not yet been made. To allow the applicant to continue with its licensed business activities uninterrupted while the Board proceeds with a hearing, I find that it is in the public interest to make an order extending the terms of licences ER-2009-0189 and GM-2009-0188 until such time as the renewal applications are determined or April 30, 2012, whichever is earlier. The applicant is reminded that this decision does not constitute a final decision on the retailer and marketer applications.

THE BOARD ORDERS THAT:

1. The term of the electricity retailer licence ER-2009-0189 is extended until the final determination of the renewal application or April 30, 2012 whichever is earlier.
2. The term of the gas marketer licence GM-2009-0188 is extended until the final determination of the renewal application or April 30, 2012 whichever is earlier.

DATED at Toronto, **October 31, 2011**

ONTARIO ENERGY BOARD

Original signed by

Jennifer Lea
Special Advisor, Market Operations



Gas Marketer Licence

GM-2009-0188

Energhx Green Energy Corporation

Valid by Extension Until

April 30, 2012

Original signed by

Jennifer Lea
Counsel, Special Projects
Ontario Energy Board
Date of Issuance: October 22, 2009
Date of Amendment: October 31, 2011

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1 Definitions

In this Licence:

“**Act**” means the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B;

“**low-volume consumer**” means a person who annually uses less than 50,000 cubic meters of gas;

“**Licensee**” means Energhx Green Energy Corporation;

“**regulation**” means a regulation made under the Act.

2 Interpretation

- 2.1 In this Licence, words and phrases shall have the meaning ascribed to them in the Act. Words or phrases importing the singular shall include the plural and vice versa. Headings are for convenience only and shall not affect the interpretation of this Licence. Any reference to a document or a provision of a document includes an amendment or supplement to, or a replacement of, that document or that provision of that document. In the computation of time under this Licence, where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens. Where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

3 Authorization

- 3.1 The Licensee is authorized, under Part IV of the Act, and subject to the terms and conditions set out in this Licence:

- a) to sell or offer to sell gas to a low-volume consumer;
- b) to act as the agent or broker for seller of gas to a low-volume consumer; and
- c) to act or offer to act as the agent or broker of a low-volume consumer in the purchase of gas.

- 3.2 The Licensee is authorized to conduct business in the name under which this Licence is issued, or any trade name(s) listed in Schedule 1.

4 Obligation to Comply with Legislation and Regulations

- 4.1 The Licensee shall comply with all applicable provisions of the Act and regulations under the Act except where the Licensee has been exempted from such compliance by regulation.

5 Obligation to Comply with Codes

- 5.1 The Licensee shall at all times comply with all applicable provisions of the Code of Conduct for Gas Marketers, as issued and amended by the Board from time to time under Part III of the Act.
- 5.2 This Licensee shall:
- a) make a copy of the Code available for inspection by members of the public at its head office and regional offices during normal business hours; and
 - b) provide a copy of the Code to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.

6 Agent for Service

- 6.1 If the Licensee does not have an office or other place of business in Ontario, the Licensee shall ensure the continuing appointment at all times of an individual who is a resident of Ontario and is at least 18 years old, or a corporation that has its head office or registered office in Ontario, as the Licensee's agent for service in Ontario on whom service of process, notices or other documentation may be made.

7 Provision of Information to the Board

- 7.1 The Licensee shall maintain records of and provide, in the manner and form determined by the Board, such information as the Board may require from time to time.
- 7.2 Without limiting the generality of paragraph 7.1, the Licensee shall notify the Board of any material change in circumstances that adversely affects or is likely to adversely affect the business, operations or assets of the Licensee as soon as practicable, but in any event no more than twenty (20) days past the date upon which such change occurs.

8 Customer Complaint and Dispute Resolution

- 8.1 The Licensee shall participate in a consumer complaints resolution process selected by the Board.

9 Term of Licence

- 9.1 This Licence shall take effect on October 22, 2009 and expire on October 20, 2010. The term of this Licence may be extended by the Board.

10 Fees and Assessments

- 10.1 The Licensee shall pay all fees charged and amounts assessed by the Board.

11 Communication

- 11.1 The Licensee shall designate a person that will act as a primary contact with the Board on matters related to this Licence. The Licensee shall notify the Board promptly should the contact details change.

- 11.2 All official communication relating to this Licence shall be in writing.
- 11.3 All written communication is to be regarded as having been given by the sender and received by the addressee:
- a) when delivered in person to the addressee by hand, by registered mail, or by courier;
 - b) ten (10) business days after the date of posting, if the communication is sent by regular mail; or
 - c) when received by facsimile transmission by the addressee, according to the sender's transmission report.

12 Copies of the Licence

- 12.1 The Licensee shall:
- a) make a copy of this Licence available for inspection by members of the public at its head office and regional offices during normal business hours; and
 - b) provide a copy of this Licence to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.

SCHEDULE 1 AUTHORIZED TRADE NAMES

1. Energhx