



**EB-2013-0076**  
**EB-2013-0077**

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

**AND IN THE MATTER OF** applications by Onit Energy Ltd. to renew Electricity Retailer Licence ER-2008-0008 and Gas Marketer Licence GM-2008-0007.

By delegation, before: Jennifer Lea

**DECISION AND ORDER**  
**November 21, 2013**

Onit Energy Ltd. ("Onit") filed an application with the Ontario Energy Board dated March 20, 2013 under section 60 of the *Ontario Energy Board Act, 1998* (the "OEB Act") to renew its electricity retailer licence ER-2008-0008. Onit also filed an application with the Board dated March 20, 2013 under section 50 of the OEB Act to renew its gas marketer licence GM-2008-0007. The Board assigned the applications file numbers EB-2013-0076 and EB-2013-0077, respectively. On July 10, 2013, Onit filed additional information to complete the applications.

The Board issued a Notice of Applications and Hearing on August 2, 2013 for the two applications, setting out the dates for the filing of interrogatories and submissions. Board staff filed interrogatories on August 23, 2013. Interrogatory responses from the applicant were due on September 13, 2013, and submissions from interested parties were due on October 4, 2013. Onit responded to Board Staff interrogatories on September 24, 2013. On September 26, 2013, Board Staff filed a letter requesting an extension of time until October 16, 2013 to make submissions to the Board and also requested that Onit's reply submission be filed within two weeks of Board Staff's submission being filed.

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On September 27, 2013, the Board issued Procedural Order No. 1 granting Board Staff's request. Board Staff filed a submission on October 16, 2013. Onit did not file a reply submission.

While I have considered the full record of these proceedings, I have referred only to those portions of the record that I consider helpful to provide context to my findings.

## FINDINGS

In gas marketer and electricity retailer licence renewal applications, key areas for consideration by the Board include the financial position, technical capability and conduct of the applicant. In these applications, no concern was raised with respect to the applicant's technical capability. Board staff, however, raised concerns with respect to the applicant's financial position and its past conduct.

In its submission, Board Staff noted that the financial statements provided by Onit in support of its applications indicate that the company has been incurring losses since 2009. Board Staff submitted that the financial information presented by Onit does not provide significant confidence in the long term viability of the business. The evidence does show, however, that the owners appear to be committed to growing the business and supplementing the finances of the company when needed.

When considering conduct, the Board recognizes that electricity retailers and gas marketers are required to comply with the OEB Act, the *Energy Consumer Protection Act, 2010* (the "ECPA"), regulations under those Acts, and the Board's regulatory instruments that apply to their licensed business activities. Onit must ensure that it has a comprehensive and accurate understanding of all applicable legal and regulatory requirements for gas marketing and electricity retailing to low-volume consumers in Ontario.

Onit was ordered to pay an administrative penalty in July 2012 after the Board found that Onit had contravened certain sections of the ECPA. Board Staff submitted that in spite of Onit's stated improved effort to ensure compliance with all rules and regulations, it continues to demonstrate a lack of knowledge of those rules. For example, Onit's response to Board Staff Interrogatory No. 1(b) which queried what sales channels Onit

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intends to use to retail electricity and to market gas, listed telephone sales as a possible marketing tool. As Board Staff noted, the ECPA does not allow telephone sales.

As a result of the financial and past conduct concerns identified, Board Staff submitted that Onit's licences be renewed for a shorter term than is the norm, i.e. two years instead of five. Staff submitted that this shorter term would provide the company with an opportunity to demonstrate its commitment to develop and establish a profitable business and to demonstrate compliance with legal and regulatory requirements.

I find that despite the problems in its financial and compliance history, Onit should be granted both gas marketer and electricity retailer licences to allow the business owners to pursue their goals for the company. However, I further find that the concerns expressed by Board staff are justified, given the evidence on the record of these applications. Both the electricity retailer licence and the gas marketer licence will be renewed for a term of two years.

**IT IS THEREFORE ORDERED THAT:**

1. The electricity retailer licence is granted for a period of two years.
2. The gas marketer licence is granted for a period of two years.

**DATED** at Toronto, November 21, 2013

**ONTARIO ENERGY BOARD**

*Original signed by*

Jennifer Lea  
Counsel, Special Projects