



**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.

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

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



# Gas Marketer Licence

**GM-2013-0077**

**Onit Energy Ltd.**

**Valid Until**

**November 20, 2015**

*Original signed by*

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**Jennifer Lea**  
**Counsel, Special Projects**  
**Ontario Energy Board**  
**Date of Issuance: November 21, 2013**

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## 1 Definitions

In this Licence:

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

"**ECPA**" means the *Energy Consumer Protection Act, 2010*, S.O. 2010, c. 8;

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

"**Licensee**" means Onit Energy Ltd.;

"**Regulation**" means regulations made under the Act or the ECPA.

## 2 Interpretation

- 2.1 In this Licence, words and phrases shall have the meaning ascribed to them in the Act or the ECPA. 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, the ECPA and the Regulations 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 November 21, 2013 and expire on November 20, 2015. 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**

None

**SCHEDULE 2 SPECIAL CONDITIONS**

None