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April 21, 2014

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, Suite 2700  
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: Direct Energy Marketing Limited  
Application for Gas Marketer Licence Renewal  
Board File Number EB-2014-0016**

In accordance with Procedural Order No 1, please find enclosed Board staff submission with respect to the above mentioned application.

Yours truly,

*Original signed by*

Irina Kuznetsova  
Case Manager

Attachment



# **ONTARIO ENERGY BOARD**

## **BOARD STAFF SUBMISSION**

Direct Energy Marketing Limited  
Application for Gas Marketer Licence Renewal

EB-2014-0016

April 21, 2014

## **THE PROCEEDING**

On January 31, 2014 Direct Energy Marketing Limited (“Direct Energy”) filed an application with the Ontario Energy Board under section 50 of the *Ontario Energy Board Act, 1998* (the “Act”) to renew its gas marketer licence.

On February 21, 2014, the Board issued a Notice of Application and Written Hearing (the “Notice”) which included dates for filing of interrogatories and submissions. No parties responded to the Notice. In accordance with the timelines set out in the Notice, on March 14, 2014 Board staff filed interrogatories on the application in order to gather additional information required for the Board’s final determination of the renewal application. On April 4, 2014, Direct Energy filed responses to Board staff interrogatories.

## **THE APPLICANT**

Direct Energy currently markets natural gas and retails electricity in Ontario to both low-volume and large-volume consumers. In addition to the Ontario energy retail market, Direct Energy markets natural gas in the Canadian provinces of British Columbia and Alberta as well as in 46 of the US states. The applicant’s current business model does not include door-to-door sales to promote its services. Direct Energy has certified with the Board to using direct mail and internet to enrol customers in addition to telephone renewals.

## **STAFF SUBMISSION**

In order to obtain or renew a Board licence to market natural gas, an applicant must establish that it meets the minimum requirements set out in the O. Reg. 90/99 “Licence Requirements – Electricity Retailers and Gas Marketers” made under the Act:

1. Having regard to the financial position of the applicant, the applicant can reasonably be expected to be financially responsible in the conduct of business.
2. The past conduct of the applicant affords reasonable grounds for belief that the applicant will carry on business in accordance with law and with integrity and honesty.

3. If the applicant is a corporation, the past conduct of its officers and directors affords reasonable grounds for belief that its business will be carried on in accordance with law and with integrity and honesty.
4. The applicant is not carrying on activities that are, or will be, if the applicant is licensed, in contravention of the OEB Act or the regulations or the codes, orders or rules issued or made by the Board.

In assessing a gas marketer licence application Board staff considers the entire application and in particular Direct Energy's financial position, past conduct and technical capability of the applicant.

### **Financial Viability**

Having reviewed the evidence provided, Board staff finds no issue with respect to the financial position of Direct Energy and submits that Direct Energy can reasonably be expected to be financially responsible in the conduct of its business.

### **Conduct**

Gas marketers in Ontario are required to comply with the Act, *Energy Consumer Protection Act, 2010* (the "ECPA"), regulations under these Acts and the Code of Conduct for Gas Marketers.

In 2011, Direct Energy was found to have contravened section 12 of the ECPA and section 7 of Ontario Regulation 389/10 and sections 3.6 and 3.7 of the Code of Conduct for Gas Marketers related to contract content requirements for renewal contracts and requirements related to transfer requests where a consumer enters into a contract with another marketer. Direct Energy provided the Board with an Assurance of Voluntary Compliance in which it admitted to the contract deficiencies and confirmed that it had amended its renewal contracts and practices to comply with regulatory requirements.

Board staff reviewed Direct Energy's interrogatory responses respecting its compliance and customer service practices. Board staff is of the view that Direct Energy has the appropriate systems, policies, procedures and controls in place, to comply with its statutory and regulatory obligations as well as the provisions set out in the Board's Codes.

### **Technical Capability**

Board staff submits that according to the application Direct Energy employs technical personnel with adequate experience and qualifications in marketing, trading, risk management, customer enrollment, account processing and customer care to provide responsive and quality support for systems and processes in the gas market where Direct Energy does business. Direct Energy indicated that it has been providing natural gas services to residential, commercial and industrial customers in Ontario since deregulation. All key individuals listed in the application reported extensive experience in the energy sector.

### **CONCLUSION**

In consideration of the evidence filed, Board staff is of the view that Direct Energy has the adequate technical and financial capabilities to operate effectively in the Ontario market. Board staff submits that there is no evidence to suggest that Direct Energy is not conducting itself in a manner consistent with the Board's Codes and Rules. Board staff supports the renewal of Direct Energy's gas marketer licence for a 5 year term.

All of which is respectfully submitted.