



**EB-2014-0016**

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

**AND IN THE MATTER OF** an application by Direct  
Energy Marketing Limited for a gas marketer licence.

By delegation, before: Jennifer Lea

## **DECISION AND ORDER**

**May 29, 2014**

Direct Energy Marketing Limited (“Direct Energy”) filed an application on January 31, 2014 with the Ontario Energy Board under section 50 of the *Ontario Energy Board Act*, 1998 (the “Act”) for a gas marketer licence renewal. The Board assigned file number EB-2014-0016 to the application.

The Board issued a Notice of Application and Hearing on February 21, 2014, inviting intervention in the hearing and comments on the application. No parties responded to the notice. Board staff participated in the hearing and filed written interrogatories on March 14, 2014. Direct Energy responded to Board staff’s interrogatories on April 4, 2014. Board staff filed a submission on April 21, 2014. Direct Energy did not file a reply submission.

### **Board Findings**

In order to renew a 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.

To evaluate applications for gas marketer licences, the Board focuses its consideration of these requirements on the applicant's financial position, technical capability to operate in the market, and conduct. The record in this case indicates that Direct Energy has met these requirements.

Board staff in its submission supported the application. After reviewing the evidence, the interrogatory answers of the applicant and Direct Energy's customer service practice- and compliance-related dealings with the Board since the last renewal of its licence, Board staff submitted that Direct Energy's gas marketer licence be renewed for the standard five year term. Board staff took the position that Direct Energy can reasonably be expected to be financially responsible in the conduct of its business and that it has adequate technical capabilities to operate in the Ontario market.

With respect to the applicant's conduct, Board staff noted that Direct Energy had been subject to sanctions by this Board in 2011 for certain contraventions of the *Energy Consumer Protection Act, 2010* and the Board's Code of Conduct for Gas Marketers. However, Board staff concluded that Direct Energy now has the appropriate systems, policies, procedures and controls in place to comply with its statutory and regulatory obligations. Board staff further submitted that there is no evidence to suggest that

Direct Energy is not conducting itself in a manner consistent with regulatory and legal requirements.

Based on the evidence, I find that it is in the public interest to grant Direct Energy a gas marketer licence under Part IV of the Act. The record does not suggest any issues regarding finances or technical competence, and the evidence regarding conduct at this time is satisfactory.

**IT IS THEREFORE ORDERED THAT:**

1. The application for a gas marketer licence is granted, on such conditions as are contained in the attached licence.

**DATED** at Toronto, May 29, 2014

**ONTARIO ENERGY BOARD**

*Original signed by*

Jennifer Lea  
Counsel, Special Projects