



**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



# Gas Marketer Licence

## GM-2014-0016

### Direct Energy Marketing Limited

Valid Until

May 28, 2019

*Original signed by*

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**Jennifer Lea**  
**Counsel, Special Projects**  
**Ontario Energy Board**  
**Date of Issuance: May 29, 2014**

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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 Direct Energy Marketing Limited;

“**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 May 29, 2014 and expire on May 28, 2019. 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. Direct Energy
2. Direct Energy Home Services
3. Direct Energy Business