



**EB-2014-0251**  
**EB-2014-0349**

**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 Superior Plus LP for a Gas Marketer licence.

**AND IN THE MATTER OF** an application by Superior Energy Management Gas LP to amend its gas marketer licence GM-2012-0038

By delegation, before: Jennifer Lea

**DECISION AND ORDER**  
**November 27, 2014**

On July 25, 2014 Superior Plus LP (“Superior Plus”) filed an application for a gas marketer licence renewal under section 50 of the *Ontario Energy Board Act, 1998*. The application was assigned Board file number EB-2014-0251. Superior Plus also filed a request on behalf of Superior Energy Management Gas LP (“SEM Gas”) to amend SEM Gas’ gas marketer licence GM-2012-0038 to shorten the term of this licence by adjusting its current expiry date of May 30, 2017 to December 31, 2015. The Board assigned a file number EB-2014-0349 to the licence amendment request.

The Board’s Notice of Application and Written Hearing was posted on August 28, 2014. No parties responded to the Notice. Further evidence on the application was obtained through Superior Plus’ answers to interrogatories from Board staff. Both Board staff and Superior Plus filed submissions recommending that the applications be granted. I have found the interrogatories and submissions very helpful in reaching the following decision.

Superior Plus and SEM Gas are both currently licensed to market natural gas in Ontario to low-volume and large-volume consumers under the same trade name: Superior Energy Management. Since 2007 the Board has addressed this situation in a series of decisions. The Board did not impose specific conditions in the licences, relying on the representations made in the applications. However, Superior Energy Management has demonstrated a disregard for Board findings and recommendations where they are inconsistent with desired gas supply or contracting arrangements.

In its application for licence GM-2007-0621, Superior Plus indicated that it would need that licence only to continue to administer legacy contracts, and that the licence would be cancelled once the term of all legacy contracts had ended. As a result, the decisions granting licence GM-2007-0621 (and interim licence GM-2012-0448) stated that the licences were granted with the understanding that no new contracts would be entered into under the authority of the licences. However, Superior Plus continued to enrol customers under those licences. In the application for renewal of its licence, Superior Plus explained to the Board that the Superior group wished to continue marketing to new and existing low-volume consumers under the Superior Plus licence as opposed to the SEM Gas licence, a reversal of the proposal put forward as part of the application for licence GM-2007-0621.

The Board, in a decision dated April 25, 2013, granted the licence renewal application (EB-2012-0448). The Board stated that while it was not persuaded that it was in the public interest to permit Superior Plus and its affiliate SEM Gas to continue to operate indefinitely with individual gas marketer licences, it accepted the submission of Superior Plus that to deny the application would be inappropriate given Superior Plus's current activity under the licence. The term of the licence was restricted to 18 months as opposed to the standard five year term.

The Board did not place conditions on the renewed licence to restrict activity under the licence. However, the Board recommended as follows:

“I recommend that Superior LP and SEM Gas LP use the next 12 months to regularize their gas supply arrangements so as to be able to operate with one licence under the Superior Energy Management name and transition all of their low-volume customers to that licence. I further recommend that within the next 18 months, one of Superior LP and SEM Gas LP apply to have one of the

licences cancelled (and begin in a timely manner the process of renewing the licence I am now granting, if that licence is to be the continuing licence).”

These recommendations have not been strictly followed. Instead, the two licences still exist, and the transition to one licence is proposed to be complete by December 31, 2015. Nevertheless, I accept the submissions of Superior Plus and Board staff that the applications be granted. The evidence in this proceeding demonstrates that since the EB-2012-0448 decision of April 25, 2013, Superior Plus and SEM Gas have been operating in accordance with the spirit of the Board recommendations in that decision.

Specifically:

- All new and renewing customer contracts since the decision are held under the Superior Plus licence;
- All arrangements for gas supply entered into since the decision are managed under Superior Plus;
- A transition plan exists to move all remaining customer contracts to Superior Plus;
- The EB-2014-0349 application proposes a fixed date for the expiry of the SEM Gas licence, which demonstrates management’s intention to complete the transition by that date;
- Persuasive reasons have been provided for delaying the transfer of all remaining customer contracts until December 31, 2015: Receivables under the customer contracts are used as collateral for gas supply. If the contracts are moved before they expire, alternate collateral would have to be provided, at a significant cost. Given the expiry dates of the majority of the contracts, completion of the transition plan by December 2015 will reduce those costs significantly;
- As part of the cover letter to the application, the present management of Superior Energy Management has undertaken that no new or renewing low-volume customers will be enrolled through the Superior Gas licence; and
- The applicant has suggested a condition be attached to the amended licence of SEM Gas to prevent the enrollment of new or renewing customers under that licence.

In deciding the application I have also considered the financial position, technical capability and the conduct of the applicant. Based on the evidence filed, Superior Plus has adequate technical and financial capabilities to operate effectively in the Ontario

market. There was no evidence to suggest that Superior Plus had not conducted itself in a manner consistent with the Board's Codes and Rules.

After considering the application, I find that it is in the public interest to grant Superior Plus a gas marketer licence. I also find that it is appropriate and in the public interest to amend the term of SEM Gas licence GM-2012-0038 to expire on December 31, 2015, and to include a condition prohibiting the enrollment of new or renewing customers under that licence. While I accept the undertaking provided by the present management of Superior Energy Management, this condition will survive any change in management of that entity.

**IT IS THEREFORE ORDERED THAT:**

1. A gas marketer licence is granted to Superior Plus LP on such conditions as are contained in the attached licence.
2. The gas marketer licence GM-2012-0038 issued under the name of Superior Energy Management Gas LP is amended such that it will expire on December 31, 2015. A special condition is added to prohibit the enrollment of new or renewing customers under the licence. The amended licence is attached to this Decision and Order.

**DATED** at Toronto, November 27, 2014

**ONTARIO ENERGY BOARD**

*Original signed by*

Jennifer Lea  
Counsel, Special Projects