

# STIKEMAN ELLIOTT

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**BY COURIER AND EMAIL**

September 27, 2016  
File No.: 127353.1010

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

Dear Ms. Walli:

**Re: Xoom Energy ONT, ULC Applications for Natural Gas Marketer &  
Electricity Retailer Licences – OEB File Nos. EB-2016-0226/EB-2016-0227**

We are writing to respond to Xoom Energy's counsel's two letters dated September 21, 2016 and to follow up on our earlier September 14, 2016 letter (copy enclosed for ease of reference).

Xoom submitted updated responses to Board staff's interrogatories removing the redactions to the large majority of answers. Planet Energy takes issue with Xoom Energy's earlier claim that all of its responses to Board staff's interrogatories contained "sensitive business information" the disclosure of which would be "detrimental to Xoom's business and future operation within the province of Ontario and elsewhere". Clearly that is not the case and Xoom's blanket claim for confidentiality was improper and should never have been advanced. In any event Planet Energy is content with the updated responses and does not intend to register any further objection.

Planet intends to bring its proposed motion to compel Xoom to answer the interrogatories Planet earlier submitted and which remain unanswered. Planet Energy does not accept Xoom's proposals for addressing Planet's concerns, none of

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which address the potential for confusion and harm to customers. Planet Energy is able to deliver its motion promptly, by the end of this week if the Board so directs.

Yours truly,

  
Glenn Zacher

/sc  
Encl.

cc: Board Staff  
Applicant

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September 14, 2016  
File No.: 127353.1010

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

Dear Ms. Walli:

**Re: Xoom Energy ONT, ULC Applications for Natural Gas Marketer &  
Electricity Retailer Licences – OEB File Nos. EB-2016-0226/EB-2016-0227**

We are counsel to Planet Energy (Ontario) Corp. ("Planet Energy"), which is an intervenor in the applications by Xoom Energy ONT, ULC ("Applicant") for natural gas marketer and electricity retailer licences.

Our client acknowledges receipt of the Applicant's September 12, 2016 responses to the interrogatories of Board Staff and Planet Energy. Planet Energy objects to the Applicant's refusal to answer all of Planet Energy's interrogatories and intends to bring a motion under Rule 29.03 to require the Applicant to respond. Contrary to the assertions made by the Applicant in its response to Planet Energy's interrogatories, the purpose of the interrogatories is not to address "private contractual terms" or "commercial disputes" between Planet Energy and the Applicant. The purpose — as stated in the preamble to Planet Energy's interrogatories and as will be further detailed in its motion — is to address the potential for confusion and harm to customers caused by Planet Energy's use of ACN representatives to market Planet Energy products (from 2010 to November 9, 2016) and the Applicant's intention, as Planet Energy's understands it, to use ACN representatives to market its own products once it is licenced in Ontario. Planet Energy wishes to ensure, among other things, that any transition of ACN representatives from Planet Energy to the Applicant is done in a way that does not confuse or harm customers. This matter is relevant to the Applicant's applications for a gas marketer and electricity retailer licence.

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Planet Energy likewise objects to the Applicant's blanket redaction of all responses to the interrogatories of Board Staff, which does not comply with the applicable *Rules of Practice and Procedure* and *Practice Direction of Confidential Filings*. Rule 10.03 entitles a party to object to a request for confidentiality by filing and serving an objection within the time specified by the Board. At present, no time has been specified by the Board for registering objections.

Planet Energy requests that the Board establish a timetable for Planet Energy to bring a motion requiring the Applicant to respond to the interrogatories of Planet Energy; and, for Planet Energy (and Board Staff, if it wishes) to file submissions objecting to the Applicant's request for confidential treatment of its responses to the interrogatories of Board Staff. Planet Energy also requests that the Board modify, as appropriate, the balance of the timetable, including the September 26, 2016 date for the filing of written submissions on the applications.

Yours truly,

A handwritten signature in black ink that reads "Glenn Zacher/sc". The signature is written in a cursive, flowing style.

Glenn Zacher

/sc

cc. Board Staff  
Applicant