

## ONTARIO ENERGY BOARD

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*;

**AND IN THE MATTER OF** an Application by Active Energy Inc. for an Order renewing its gas marketing and electricity retailing licences.

### REPLY SUBMISSIONS

1. Active Energy Inc. ("**Active**") makes these submissions in reply to OEB Staff's submission, dated July 11, 2017, concerning Active's applications for renewal of its gas marketer and electricity retailer licences.

#### Summary of Board Staff's Submission

2. Board Staff recognize and the record demonstrates that Active possesses the financial viability<sup>1</sup> and technical capability<sup>2</sup> that the Board appropriately expects of holders of gas marketer and electricity retailer licences.
3. Board Staff also appear to be satisfied that Active's past conduct is such that renewal of its licences would be appropriate.
4. Board Staff submit, however, that because Active is no longer acquiring new low-volume consumers:
  - a. Active's gas marketer licence should be renewed for a reduced term that corresponds with the date upon which Active's final natural gas contract will expire, and

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<sup>1</sup> Staff Submission, July 11, 2017, p. 2 of 5.

<sup>2</sup> *Ibid.*, p. 3 of 5.

- b. Active should be required to apply to the OEB for an amendment to its electricity retailer licence to remove the authority to retail electricity to low-volume customers once all such contracts expire.

**Focus of Active's Submissions**

- 5. These reply submissions address the following three topics:
  - a. Active's past conduct;
  - b. Active's intended future activity with respect to gas marketing and electricity retailing; and
  - c. the appropriate term of any licence renewal granted to Active.

**a. Active's Past Conduct**

- 6. Board Staff's discussion of Active's past conduct identifies some, but not all, of the steps that Active takes to ensure compliance with its obligations. As Board Staff notes, [REDACTED]  
[REDACTED]  
[REDACTED].<sup>3</sup>

- 7. In addition to these important steps, [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

- 8. While Board Staff identifies steps taken by Active to meet its compliance obligations, Board Staff criticizes Active for not fully responding to interrogatory #7. In this interrogatory, Board Staff asked [REDACTED]  
[REDACTED]

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<sup>3</sup> Ibid., p. 4 of 5.  
<sup>4</sup> Active's Interrogatory Responses, Question 6b.

[REDACTED]

9. Active fully responded to this interrogatory noting that: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

10. [REDACTED]  
[REDACTED]

[REDACTED] The two Notices of Intention relate to alleged breaches of the requirements applicable to low volume customers on the basis that each customer meter or account is a separate “customer” for the purposes of the *Energy Consumer Protection Act* and related regulations. Active disagrees with this interpretation of the legislation and looks forward to an oral hearing before the Board on this issue in the fall.

11. Active invests significant resources in ensuring legal and regulatory compliance and would not allow breaches of any of its obligations to persist.

**b. Active’s Future Activities**

12. Board Staff correctly note that Active does not actively sell natural gas and electricity to low-volume consumers,<sup>5</sup> though Active has a number of ongoing contracts with low-volume consumers. Active’s last low volume consumer contract for natural gas expires June 30, 2021.<sup>6</sup>

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<sup>5</sup> Staff Submission, p. 4 of 5.

<sup>6</sup> Board Staff requested that Active address this point in its reply submissions. See Staff Submission, p. 5 of 5.

13. Board Staff also state, however, that Active does not intend to continue gas marketing or electricity retailing to low-volume consumers once its existing contracts expire.<sup>7</sup>
14. This submission is not entirely correct. While Active does not have any active retailing activity ongoing in 2017, Active's future business plans have not been finalized. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] Active would like to retain the flexibility to evolve its business in future.

**c. The Appropriate Renewal Term**

15. Active requests that it be granted licences with standard five-year terms.
16. Active submits that it would be appropriate to grant it full-term licences because it has proven its financial viability, technical capability and appropriate past conduct on this application. Its ongoing contracts with low-volume consumers expire in close proximity to the close of the standard five year licence terms in any case. Accordingly, it would be for only a short time that Active's licence might authorize it to engage in a broader range of activities than what it might be actively performing.
17. If the OEB has any concern about granting Active a full-term licence where it may not be necessary given its business activities, then the OEB may provide that Active should apply for a licence amendment if and when it decides not to pursue activities that would require it to have permissions in place to market to low-volume consumers of natural gas and electricity.

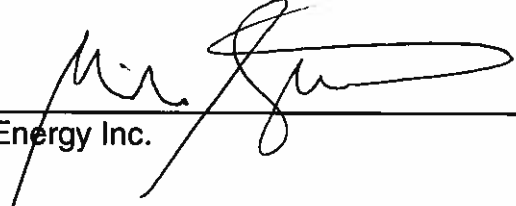
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<sup>7</sup> Ibid., p. 5 of 5.

**Requested Disposition**

18. Active thus requests that the Board renew its gas marketing and electricity retailing licences for the standard five-year terms.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED by:**

  
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Active Energy Inc.  
Per:

July 25, 2017