

June 29, 2017

**VIA EMAIL** [boardsec@ontarioenergyboard.ca](mailto:boardsec@ontarioenergyboard.ca)

Ontario Energy Board  
P.O. Box 2319  
27th Floor  
2300 Yonge Street  
Toronto ON M4P 1E4

Attention: Ms. K. Walli, Board Secretary

Dear Ms. Walli:

**Re: In the Matter of a Notice of Intention to Make an Order for Compliance *et al* against Planet Energy**

**File No. EB-2017-0007**

We are counsel to OEB Enforcement Staff in this matter.

I write regarding the Board's Procedural Order No. 2, issued June 26, 2017, which relates to Planet Energy's motion for production from third parties.

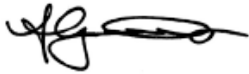
Rule 21.01A of the OEB's *Rules of Practice and Procedure for Enforcement Proceedings* provides as follows:

A party seeking the production of documents from third parties in connection with an enforcement proceeding shall bring a motion, **on notice to the person from whom production is sought**, returnable before the panel of the Board that is seized with hearing the proceeding, and shall not require the production of any documents prior to the commencement of the hearing unless the Panel orders otherwise. [Emphasis added].

This rule protects the third party's right to receive notice of the motion because the interests of the third party may be uniquely affected by the relief sought in the motion, and no other party is in a position to fully and fairly represent those interests. For the same reason, it is important that the third party have an opportunity to be heard on the motion.

As a matter of fairness to the third parties from which Planet Energy seeks production, those third parties are entitled to be served with all materials filed on the motion, and have an opportunity, if they wish, to file written materials in response and to appear at the hearing of the motion. Accordingly, OEB Enforcement Staff respectfully requests that Procedural Order No. 2 be amended to require the parties to serve their materials on the third parties, and to allow the third parties an opportunity to file materials responding to the motion, if they wish.

Yours truly,

A handwritten signature in black ink, appearing to read 'AG', with a long horizontal flourish extending to the right.

Andrea Gonsalves  
AG/ac

c: Glenn Zacher / Mel Hogg (Stikeman Elliott LLP) – *via email*  
Michael Bell – *via email*  
Ian Richler – *via email*  
Jim MacArthur – *via email*  
Kayvan Nahid – *via email*  
Roobinet Andrassin – *via email*  
Robert Hawkins – *via email*