

OEB STAFF SUBMISSION

**Summitt Energy Management Inc. on behalf of
Summitt Energy LP**

**Electricity Retailer Licence Renewal Application
EB-2018-0099
&
Gas Marketer Licence Renewal Application
EB-2018-0100**

May 3, 2018

THE PROCEEDING

On February 5, 2018, Summitt Energy Management Inc. on behalf of Summitt Energy LP (Summitt Energy) filed an application with the Ontario Energy Board (OEB) under section 60 of the *Ontario Energy Board Act, 1998* (OEB Act) to renew its electricity retailer licence ER-2013-0037. Summitt Energy also filed an application under section 50 of the OEB Act to renew its gas marketer licence GM-2013-0038.

On February 26, 2018, the OEB issued a combined Notice of Applications and Written Hearing (Notice), which included dates for filing of interrogatories and submissions. No parties responded to the Notice. In accordance with the timelines set out in the Notice, on March 29, 2018, OEB staff filed interrogatories on the applications in order to gather additional information required for the OEB's final determination of the renewal applications. On April 20, 2018, Summitt Energy filed responses to OEB staff interrogatories.

THE APPLICANT

Summitt Energy currently markets natural gas and retails electricity in Ontario to low-volume and large-volume consumers. In addition to the Ontario energy retail market, Summitt Energy retails electricity and markets natural gas in the Canadian provinces of British Columbia and Quebec as well as in nine US states (California, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Illinois and Texas).

STAFF SUBMISSION

In assessing an electricity retailer and gas marketer licence applications OEB staff considers the entire applications and in particular the financial viability, past conduct and technical capability of the applicant.

Financial Viability

Having reviewed the evidence provided, OEB staff finds no issue with respect to the financial position of Summitt Energy and submits that Summitt Energy can reasonably be expected to be financially responsible in the conduct of its business.

Conduct

Electricity retailers and gas marketers in Ontario are required to comply with the OEB Act, *Energy Consumer Protection Act, 2010* (ECPA), regulations under these Acts, and the Codes of Conduct for Gas Marketers and Electricity Retailers (collectively the Codes).

An important factor in the OEB's review of the licence applications is the applicant's past conduct. OEB staff notes that since the last renewal of its licences, Summitt Energy has been subject to two OEB enforcement proceedings. In 2014, the OEB found that some of Summitt Energy's marketing materials were outdated and could be misleading to consumers. In 2017, the OEB found that Summitt Energy's salesperson was misrepresenting the company and potential savings to the consumers. In each instance, Summitt Energy has admitted to the deficiencies and breaches of enforceable provisions and provided the OEB with Assurances of Voluntary Compliance. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

OEB staff's interrogatories to Summitt Energy sought to further the record with respect to Summitt Energy's plans to ensure compliance with its legal and regulatory obligations if the applicant were granted renewal of its licences. In its response to OEB staff interrogatory #5, the applicant provided a detailed description of its compliance regime,

[REDACTED]

Summitt Energy also described its processes and procedures that are put in place to expeditiously investigate complaints as required in the Codes. In OEB staff's view, Summitt Energy has the appropriate systems, policies, procedures and controls in place to comply with its statutory and regulatory obligations as well as the provisions set out in the Codes.

Technical Capability

OEB staff submits that according to the applications, Summitt Energy employs technical personnel with adequate experience and qualifications in the retail energy industry.

All key individuals listed in the applications are reported to have extensive experience in the energy sector. As stated in responses to OEB staff interrogatories, Summitt Energy's management and technical personnel is maintaining compliance, operating and information technology systems and processes to ensure Summitt Energy and its affiliates adhere to the required regulations and regulatory guidelines.

[REDACTED]

CONCLUSION

In consideration of the evidence filed, OEB staff is of the view that Summitt Energy has the adequate technical and financial capabilities to operate in the Ontario market. OEB staff is of the view that Summitt Energy has the appropriate systems, policies, procedures and controls in place to comply with its statutory and regulatory obligations.

All of which is respectfully submitted.