



**Ontario Energy Board  
Commission de l'énergie de l'Ontario**

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**DECISION AND ORDER**

**EB-2018-0321**

**THE CORPORATION OF THE CITY OF  
KITCHENER – UTILITIES DIVISION**

**Application for a Gas Marketer Licence**

**BY DELEGATION,**

**BEFORE: Brian Hewson**  
Vice President, Consumer Protection & Industry Performance

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**February 14, 2019**

## DECISION AND ORDER

The Corporation of the City of Kitchener - Utilities Division (Kitchener) filed an application on November 27, 2018, with the Ontario Energy Board (OEB), under section 50 of *Ontario Energy Board Act, 1998* (OEB Act), for a renewal of its gas marketer licence (GM-2014-0018), which is set to expire on April 15, 2019. The granting of this licence would enable Kitchener to continue selling natural gas to consumers in Ontario.

As part of its licence renewal application, Kitchener requested that the OEB grant the continuance of the current exemptions under the Code of Conduct for Gas Marketers (Code), specifically, Part B - Sections 1.1(a),(b) and (c); 2; 3; 4; 5; 6; 7.1 to 7.6; 10 and Part C, and the Natural Gas Reporting and Record Keeping Requirements – Gas Marketer Licence Requirements (RRRGM), Sections 2.1, 2.2.2(a) through (f), 2.2.3 and 2.2.4.

This Decision and Order is being issued by the Delegated Authority, without holding a hearing, pursuant to Section 6 of the OEB Act.

### FINDINGS

When evaluating an application for a gas marketer licence renewal, the OEB focuses its consideration on the requirements set out in Ontario Regulation 90/99; in particular, the applicant's financial position, technical capability to operate in the market, and conduct.

With respect to the applicant's technical and financial position, Kitchener can reasonably be expected to be financially responsible for the conduct of its business and has adequate technical capabilities to operate in the Ontario market.

With respect to the applicant's conduct, Kitchener has not been subject to any OEB enforcement proceedings since the renewal of its gas marketer licence in 2014, and there were no complaints about Kitchener's conduct filed with the OEB within the last two years.

With regard to the applicant's request for a continuance of certain exemptions from the Code and the RRRGM. As the applicant does not operate as a competitive gas marketer under the licence, does not employ salespersons to market gas and does not enter into gas supply contracts with its system supply customers, the applicant is appropriately exempt from sections of the Code and the RRRGM that govern those activities.

After considering the application, the OEB finds it to be in the public interest to grant Kitchener's application for renewal of its gas marketer licence. The OEB also finds it in the

public interest to approve the applicant's request for a certain exemptions from the Code and the RRRGM as described in this Decision and Order.

**IT IS ORDERED THAT:**

1. The application for a gas marketer licence is granted, on such conditions as are contained in the attached licence.

**DATED** at Toronto, February 14, 2019

**ONTARIO ENERGY BOARD**

*Original signed by*

Brian Hewson  
Vice President, Consumer Protection & Industry Performance



## Gas Marketer Licence

**GM-2018-0321**

### **The Corporation of the City of Kitchener- Utilities Division**

Valid Until

**February 13, 2024**

*Original signed by*

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**Brian Hewson**  
**Vice President, Consumer Protection & Industry Performance**  
**Ontario Energy Board**  
**Date of Issuance: February 14, 2019**

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## 1 Definitions

In this Licence:

“**Act**” means the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B;

“**low-volume consumer**” means a person who annually uses less than 50,000 cubic meters of gas;

“**Licensee**” means The Corporation of the City of Kitchener – Utilities Division;

“**regulation**” means a regulation made under the Act.

## 2 Interpretation

- 2.1 In this Licence, words and phrases shall have the meaning ascribed to them in the Act. Words or phrases importing the singular shall include the plural and vice versa. Headings are for convenience only and shall not affect the interpretation of this Licence. Any reference to a document or a provision of a document includes an amendment or supplement to, or a replacement of, that document or that provision of that document. In the computation of time under this Licence, where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens. Where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

## 3 Authorization

- 3.1 The Licensee is authorized, under Part IV of the Act, and subject to the terms and conditions set out in this Licence:
- a) to sell or offer to sell gas to a low-volume consumer;
  - b) to act as the agent or broker for seller of gas to a low-volume consumer; and
  - c) to act or offer to act as the agent or broker of a low-volume consumer in the purchase of gas.
- 3.2 The Licensee is authorized to conduct business in the name under which this Licence is issued, or any trade name(s) listed in Schedule 1.

## 4 Obligation to Comply with Legislation and Regulations

- 4.1 The Licensee shall comply with all applicable provisions of the Act and regulations under the Act except where the Licensee has been exempted from such compliance by regulation.

## **5 Obligation to Comply with Codes**

- 5.1 The Licensee shall at all times comply with all applicable provisions of the Code of Conduct for Gas Marketers, as issued and amended by the Board from time to time under Part III of the Act.
- 5.2 This Licensee shall:
- a) make a copy of the Code available for inspection by members of the public at its head office and regional offices during normal business hours; and
  - b) provide a copy of the Code to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.

## **6 Agent for Service**

- 6.1 If the Licensee does not have an office or other place of business in Ontario, the Licensee shall ensure the continuing appointment at all times of an individual who is a resident of Ontario and is at least 18 years old, or a corporation that has its head office or registered office in Ontario, as the Licensee's agent for service in Ontario on whom service of process, notices or other documentation may be made.

## **7 Provision of Information to the Board**

- 7.1 The Licensee shall maintain records of and provide, in the manner and form determined by the Board, such information as the Board may require from time to time.
- 7.2 Without limiting the generality of paragraph 7.1, the Licensee shall notify the Board of any material change in circumstances that adversely affects or is likely to adversely affect the business, operations or assets of the Licensee as soon as practicable, but in any event no more than twenty (20) days past the date upon which such change occurs.

## **8 Customer Complaint and Dispute Resolution**

- 8.1 The Licensee shall participate in a consumer complaints resolution process selected by the Board.

## **9 Term of Licence**

- 9.1 This Licence shall take effect on February 14, 2019 and expire on February 13, 2024. The term of this Licence may be extended by the Board.

## **10 Fees and Assessments**

- 10.1 The Licensee shall pay all fees charged and amounts assessed by the Board.

## **11 Communication**

- 11.1 The Licensee shall designate a person that will act as a primary contact with the Board on matters related to this Licence. The Licensee shall notify the Board promptly should the contact details change.

- 11.2 All official communication relating to this Licence shall be in writing.
- 11.3 All written communication is to be regarded as having been given by the sender and received by the addressee:
- a) when delivered in person to the addressee by hand, by registered mail, or by courier;
  - b) ten (10) business days after the date of posting, if the communication is sent by regular mail; or
  - c) when received by facsimile transmission by the addressee, according to the sender's transmission report.

## **12 Copies of the Licence**

- 12.1 The Licensee shall:
- a) make a copy of this Licence available for inspection by members of the public at its head office and regional offices during normal business hours; and
  - b) provide a copy of this Licence to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.



**SCHEDULE 1 AUTHORIZED TRADE NAMES**

1. Kitchener Utilities

**SCHEDULE 2**  
**LIST OF EXEMPTIONS FROM THE CODE OF CONDUCT FOR GAS MARKETERS**

1. Part B, Section 1.1(a);
2. Part B, Section 1.1(b);
3. Part B, Section 1.1(c);
4. Part B, Section 2;
5. Part B, Section 3;
6. Part B, Section 4;
7. Part B, Section 5;
8. Part B, Section 6;
9. Part B, Section 7.1;
10. Part B, Section 7.2;
11. Part B, Section 7.4;
12. Part B, Section 7.5;
13. Part B, Section 7.6;
14. Part B, Section 10; and
15. Part C.

**SCHEDULE 3  
LIST OF EXEMPTIONS FROM THE NATURAL GAS REPORTING AND RECORD KEEPING  
REQUIREMENTS**

The Licensee is exempt from the following:

1. Section 2.1.
2. Sections 2.2.2(a) through (f).
3. Section 2.2.3.
4. Section 2.2.4.