

SRG

Solmon Rothbart Goodman LLP
Barristers

RECEIVED

SEP 16 2009

Melvyn L. Solmon, B.A.Sc., LL.M. (Harv) **

Randall M. Rothbart, B.A., LL.B.

Mark L. Goodman, B.A., LL.B.

Avrum D. Slodovnick, LL.B.

Nancy J. Tourgis, B.Sc.H., LL.B.

James P. McReynolds, B.Comm., LL.B.

Jonathon M. Kappy, B.Comm., LL.B.

Raffaele Sparano, B.A.(Hon.), LL.B.

Matthew Valitutti, B.A., LL.B.

Cameron J. Wetmore, B.A.C.S., LL.B.

Marina Stoeva, Hon. B.Sc., LL.B.

Member of the New York Bar **

ONTARIO ENERGY BD

September 16, 2009

VIA COURIER

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

Attention: Ms. Kristen Walli, Board Secretary

Dear Ms Walli

Re: Ontario Energy Savings L.P. – Application to Ontario Energy Board to Change its Name to Just Energy Ontario L.P.
Our File No.: 16360

FB-20090257

| OEB BOARD SECRETARY | |
|---------------------|--------------|
| File No: | Sub File: 10 |
| Panel | |
| Licensing | George D. |
| Other | |
| 69/94 | |

Please find enclosed herein our Reply Submissions to submissions delivered by Macleod Dixon dated August 24, 2009.

Yours very truly,

SOLMON ROTHBART GOODMAN LLP



Randall M. Rothbart
RMR/ngc

Encls.

cc. Ian A. Mondrow, Macleod Dixon LLP – via courier

rrothbart@srglegal.com

375 University Ave., Suite 701, Toronto, ON M5G 2J5
T 416 947.1093 F 416 947.0079



Solmon Rothbart Goodman LLP
Barristers

September 16, 2009

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
**Attention: Ms. Kristen Walli, Board
Secretary**

Macleod Dixon LLP
Toronto-Dominion Centre
TD Waterhouse Tower
79 Wellington Street West
Suite 2300, P.O. 128
Toronto, ON M5K 1H1
Attention: Ian A. Mondrow

Dear Sirs:

Re: **IN THE MATTER OF AN APPLICATION by Ontario Energy Savings L.P.
("OES") to change its name to Just Energy Ontario L.P.**

**REPLY SUBMISSIONS TO SUBMISSIONS OF OES BY ITS COUNSEL
DATED AUGUST 24, 2009**

These submissions are made in reply to the submissions delivered by Macleod Dixon on August 24, 2009 as counsel to OES.

Clear Prejudice to Ontario Energy Consumers

It is submitted that the prejudice to Ontario Energy Consumers is plainly made out by the submissions earlier delivered and is in fact further supported by the submissions made in reply by OES. In particular, OES suggests that there will be no prejudice to Ontario Energy Consumers because the OEB's public records and the records of the Ministry of Commercial and Consumer Affairs are available for the Ontario public to investigate or search, as the case may be, to uncover the fact that "Just Energy" formerly carried on business as OES.

Melvyn L. Solmon, B.A.Sc., LL.M. (Harv)**

Randall M. Rothbart, B.A., LL.B.

Mark L. Goodman, B.A., LL.B.

Avrum D. Slodovnick, LL.B.

Nancy J. Tourgis, B.Sc.H., LL.B.

James P. McReynolds, B.Comm., LL.B.

Jonathon M. Kappy, B.Comm., LL.B.

Raffaele Sparano, B.A.(Hon.), LL.B.

Matthew Valitutti, B.A., LL.B.

Cameron J. Wetmore, B.A.C.S., LL.B.

Marina Stoeva, Hon. B.Sc., LL.B.

Member of the New York Bar **

FILE NUMBER EB-2009-0257

rrothbart@srglegal.com

375 University Ave., Suite 701, Toronto, ON M5G 2J5

T 416 947.1093 F 416 947.0079

With all due respect, the practical realities of the circumstances suggest this to be a completely impractical and untenable submission. The Board need only ask itself how many individuals and/or businesses in Ontario will actually take the time, expend the effort or incur the actual out of pocket expenses necessary to complete Ministry of Commercial and Consumer Affairs name registration searches and searches of the OEB website to determine if in fact "Just Energy" formerly carried on business under another name¹. These searches are usually the province of law firms or those competitors involved in the industry. It is impractical to suggest that thousands of individuals will conduct these searches in order to determine whether energy suppliers formerly carried on business under a different name.

It seems clear from the OES' submission that it is not interested in refuting the various complaints or litigation it is involved in, because that would just focus the OEB on the reasons why the SRG submission and the opposition to the name change has substantial foundation.

The OES past conduct related to the admitted forgeries in 2003 speaks for itself as does the increasing volume of complaints as against OES. This information is in the public realm.

In particular, the significance and volume of these complaints against OES was acknowledged by the Director of licensing for the Board, namely, Mark Garner, who indicated in a June 20, 2003 press release (**Tab 1** to the earlier written submissions of SRG):

"However, our investigations led us to conclude that the size of the problem was unacceptable and was undermining consumer confidence in Ontario's retail energy markets," continued Garner

"While both Direct Energy and OESC have made significant progress to address this issue, consumers have told the OEB that there must be accountability in this market. And I agree."

"Police forces have been informed of the findings of the Director."

This was a significant matter as is the increasing volume of complaints as against OES. As stated earlier, OES should not be able to bury the past and expect that the OEB will condone this on the basis that Ontario Energy Consumers will incur the time, effort and expense in searching Ministry's name change database and the OEB's websites.

"Rebranding" Benefits OES not Ontario Energy Consumers

OES suggests in its submission, that the "rebranding" of OES to Just Energy benefits Ontario Energy Consumers. There is no real substantive evidence of this in the submissions made on behalf of OES. In particular, the suggestion is made that the

¹ Any member of the public that wishes to search this must either physically attend at the Ministry of Commercial and Consumer Affairs at 375 University Avenue or alternatively engage the services of a company that can perform these searches online at a cost of at least \$20.00 which includes the government disbursement.

OES business has somehow changed and that supports a rebranding. The fact is that it is absolutely clear that the core business of OES is exactly the same as it was. The websites for the Energy Savings Group and Just Energy are virtually identical². (Materials downloaded from both the "Energy Savings Group" and "Just Energy" websites confirm this – Tab 6 and Tab 7).

OES further relies on the fact that it has expended significant time, effort and funds in relation to this rebranding. The materials attached to the OES' submission suggests that OES actually went ahead and registered its name change to "Just Energy" with the Ministry of Commercial and Consumer Affairs on or about July 20, 2009, about a month after it had made an application to the OEB on June 30, 2009, but before any decision was rendered by the OEB. The fact that they have proceeded in this manner seems only to suggest that they regard the Board's approval as a "rubber stamp" to their request.

In so far as they expended time, effort and funds in relation thereto, they are the authors of their own misfortune. Certainly this reasoning cannot be a legitimate rationale for the Board to consider. To do so, would effectively undermine the Board's own authority in that it would effectively be condoning name change requests such as this proceeding prior to any decision having been considered and made by the Board. If anything, this conduct should be discouraged as opposed to being rewarded.

Perhaps the greatest irony that results from the OES' submission is the fact that they ground part of their submission for the proposed change on the fact that there was some expressed concern relating to the fact that some regulators felt that the use of the term "savings" in the corporate name could focus potential consumers on savings rather than "security and simplicity".

Further Conclusion

As a result of the earlier submissions and this reply, it is submitted that the Board should not grant the request. However, if the Board is predisposed to do so then it is submitted that it should only do so on the basis that OES is required to, in every case, where "Just Energy" is referred to either in letterhead, communications of any form including in any and all contracts or agreements, include the phrase "**Formerly carried on business as Ontario Energy Savings**" be bracketed in the same font, beside the term Just Energy or any abbreviation or short form thereof, so as to ensure that the Ontario public is cognisant of the fact that Just Energy is really OES carrying on business under a new name.

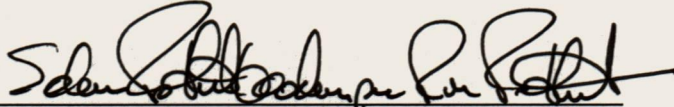
To be candid, the submission made by OES concerning the fact this rebranding has been undertaken in Texas, New York and other provinces in Canada is irrelevant. It is submitted that the OEB's mandate is to protect Ontario Energy Consumers, not those of other countries or even other provinces. We have no knowledge of OES' past conduct

² Go to www.JustEnergy.com and www.energysavings.com. We have copies of most of the materials posted on the websites if required by the OEB with the caveat that all of the pictures would not print.

in other jurisdictions and they are presently irrelevant to this request made by them in Ontario.

Simply put, OES has a past history. It's known to the public. The Board should not allow them to attempt to bury it to the detriment of Ontario Energy Consumers.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.



Solomon Rothbart Goodman LLP

RMR/ngc

[My Account](#)



Call Us Today! 1.866.638.8236

Make Budgeting Easier with Energy Price Protection

- [About Us](#)
- [Join Us](#)
- [Investor Relations](#)
- [Products](#)
 - [Residential Energy](#)
 - [Green Energy Options](#)
 - [Commercial Energy](#)
- [In The Community](#)
- [Contact Us](#)

Enter your ZIP or Postal Code to see packages available in your area.

CALL US NOW
1.866.638.8236

Or We Can Call You!

Submit your contact information below and an Energy Savings consultant will contact you shortly.

| | | | | | | | |
|-------------|----------------------|------------------|----------------------|---------------------|----------------------|--------|----------------------|
| First Name: | <input type="text"/> | Last Name: | <input type="text"/> | E-mail: | <input type="text"/> | Phone: | <input type="text"/> |
| | <input type="text"/> | Alternate Phone: | <input type="text"/> | Zip or Postal Code: | <input type="text"/> | | |



MORE>>

If you live in a deregulated energy market, and aren't enrolled in a rate protection plan, you're missing a great opportunity to finally gain control over your energy bills. Energy Savings lets you lock in your electricity or natural gas rate - and keep it there for long-term protection against the volatile markets. With fewer unpleasant surprises in your energy bills each month, your budgeting will get a whole lot easier - and your stress a whole lot lower.

Plus, Energy Savings gives you the opportunity to support "green energy" by participating in the Green Energy Option (GEO) program. Just select your GEO contribution when you register, and you're on your way to a greener future! Energy Savings gives you choices, and choices give you control. Get control of your energy bills by calling today!

Call Us Today! **1.866.638.8236**

[Home](#) | [About Us](#) | [Join Us](#) | [Investor Relations](#) | [In The Community](#) | [FAQ's](#) | [Customer Service](#)

[Contact Us](#) | [Privacy Policy](#)

© 2009 Energy Savings L.P. | All rights reserved

[My Account](#)



ENERGY MADE EASY

Call Us Today! 1.877.222.5179

Make Budgeting Easier with Energy Price Protection

- [About Us](#)
- [Join Us](#)
- [Investor Relations](#)
- [Products](#)
 - [Residential Energy](#)
 - [Green Energy Options](#)
 - [Commercial Energy](#)
 - [Green Water Heaters](#)
- [In The Community](#)
- [Contact Us](#)

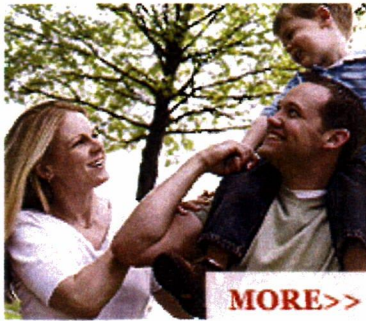
Enter your ZIP or Postal Code to see packages available in your area.

CALL US NOW
1.877.222.5179

Or We Can Call You!
Submit your contact information below and a
Just Energy consultant will contact you shortly.

First Name: Last Name: E-mail: Phone:
 Alternate Phone: Zip or Postal Code:

Stabilize your budget with Energy Price Protection

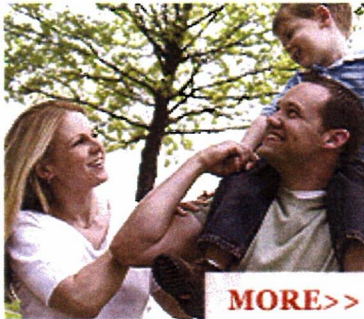


Take control of your energy options



**Go Green with
GEOpower and GEOgas**

Stabilize your budget with Energy Price Protection



Take control of your energy options



**Go Green with
GEOpower and GEOgas**



MORE>>

If you live in a deregulated energy market, and aren't enrolled in a rate protection plan, you're missing a great opportunity to finally gain control over your energy bills. Just Energy lets you lock in your electricity or natural gas rate - and keep it there for long-term protection against the volatile markets. With fewer unpleasant surprises in your energy bills each month, your budgeting will get a whole lot easier - and your stress a whole lot lower.

Plus, Just Energy gives you the opportunity to support "green energy" by participating in the Green Energy Option (GEO) program. Just select your GEO contribution when you register, and you're on your way to a greener future! Just Energy gives you choices, and choices give you control. Get control of your energy bills by calling today!

Call Us Today! **1.877.222.5179**

[Home](#) | [About Us](#) | [Join Us](#) | [Investor Relations](#) | [In The Community](#) | [FAQ's](#) | [Customer Service](#)

[Contact Us](#) | [Privacy Policy](#)

© 2009 Just Energy. JUST ENERGY and the JUST ENERGY design are trademarks of Just Energy Income Fund used under license.